



Student Paper Series

**The European Debt Crisis and the Functional Logic of the
Parliamentary System: A Case Study of the German Bundestag**
By Lucy Kinski (MPP 2012)

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the Functional Logic of the Parliamentary System**

A Case Study of the German *Bundestag*

Lucy Kinski

With a foreword by Markus Jachtenfuchs

FOREWORD

Especially in the context of the latest European financial, economic and debt crises, the role of national parliaments in general and the German *Bundestag* in particular has received considerable public attention. In her Working Paper, Lucy Kinski sheds light on the question of whether the European debt crisis is inducing a gradual shift of the functional logic of the German parliament from 'New' to 'Old Dualism': Is there a shift in cleavages from the government and its majority vs. the opposition towards the parliament as a whole vs. the government?

Originally submitted as her Master of Public Policy Thesis at the Hertie School of Governance in April 2012, her work offers a theoretically well-grounded and empirically rigorous, very timely study on an extremely important and controversial topic in German EU politics. It furthermore constitutes very solid empirical background research in an area that is otherwise characterized by partisan arguments. Lucy Kinski displays an excellent knowledge of the relevant literature on the European Union as well as national parliaments and developed a parsimonious and convincing research question on the basis of this literature including thorough and appropriate methodological reflections.

In a very comprehensive document analysis as well as seventeen systematic semi-structured interviews with members of the *Bundestag*, the German government and the parliament's administration, which occupy an important role in the research design and are not merely used as occasional additional information, the author finds evidence for an increased institutional self-interest of the German parliament vis-à-vis the government as well as a growing politicization of issues related to the European debt crisis.

Markus Jachtenfuchs

Abstract

Over the last 20 years national parliaments have increasingly been the focus of the debate on the European Union's (EU) democratic deficit. They have lost core parliamentary competencies ("deparliamentarization"), yet have simultaneously increased their formal information and participation rights in EU affairs.

This paper focuses on the German *Bundestag* which is characterized by a wide gap between formal right-endowment and de facto right-employment. It argues that the most valid explanatory factor for this lies in the functional logic of the German parliamentary system: Within this so-called logic of 'New Dualism', the governing majority carries its government and has no incentive to discredit it publicly.

It is furthermore argued that this system is hit by an external shock, namely the measures taken on the EU level to combat the debt crisis. It is hypothesized that the specific character of the debt crisis measures as the independent variable affects the functional logic of the parliamentary system as the dependent variable, potentially inducing a gradual drift from the prevailing logic of 'New Dualism' (government and its majority vs. the opposition) to 'Old Dualism' (parliament as a whole vs. the government).

The empirical analysis focuses on the European Financial Stability Facility (EFSF) and three levels: The system's level, i.e. the entire parliament, the individual-behavioral level, i.e. the behavior of single parliamentarians, and the role-orientation level, i.e. the parliamentarians' mindset. The study is based on a document analysis as well as 17 semi-structured interviews with members of parliament, their staff, the *Bundestag's* administration and the executive.

The findings indicate some 'holes' in the 'New Dualism' logic on the first two levels of analysis signaling towards 'Old Dualism'. At the same time, the interviewees are still very much caught up in the usual cleavage mindset, thus a shift in role-orientations cannot be seen, (yet). In addition to the external 'shock character' of the crisis, the interviewees do identify an internal stimulus, namely the voter pushing for a higher politicization of the topic, arguably moving it closer to the logic of 'normal domestic politics'. While democratically desirable, the longevity of these drifts remains to be seen.

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“Parliaments are not supposed to negotiate and governments are not supposed to decide.”

N. Lammert, March 5, 2012, Berlin

Introduction

Since the acceleration of the European integration process in the late 80s, national parliaments have increasingly been the focus of the academic and political debate on the European Union’s democratic deficit. They allegedly suffer from deparliamentarization, i.e. losing core parliamentary functions, but have not been passive victims, and instead reacted to these challenges by incrementally increasing their formal information and participation rights in EU affairs. Yet, what is striking is the empirical fact that they have de facto been rather reluctant to use these gradually acquired rights.

The German *Bundestag* is *the* prime example of this discrepancy: Formally among the strongest parliaments in the EU, it is said to not make use of its rights self-confidently vis-à-vis the government. Consequently, there is a wide gap between formal right-endowment and de facto right-employment. In the view of this thesis, the most valid explanatory factor for this lies in the functional logic of the German parliamentary system: Within this logic of ‘New Dualism’, the governing majority carries its government and has no incentive to discredit it publicly by formal parliamentary instruments such as resolutions. Instead it acts as a monitoring scrutinizer, criticizing internally.

This system is now hit by an external shock, namely the measures taken on the European level to combat the European debt crisis. They constitute a shock as they firstly create legal uncertainty due to their intergovernmental nature: How should the *Bundestag* participate in these processes? Secondly, they create cognitive uncertainty among the parliamentarians: How precisely is the *Bundestag’s* core right, the power of the purse, affected? This thesis hypothesizes that this specific character of the debt crisis measures as the independent variable affects the functional logic of the parliamentary system as the dependent variable, potentially inducing a gradual drift from the prevailing logic of ‘New Dualism’ – with the government and its majority constituting an ‘action unit’ vis-à-vis the opposition – to ‘Old Dualism’ – with the cleavage running between the parliament as a whole and the government. As we are still not back to ‘normal times’, however, this thesis can only aim to provide some first-hand evidence of a potential incremental shift in an explorative fashion.

The empirical analysis focuses on the European Financial Stability Facility (EFSF)¹ as the fully implemented measure among the multiple crisis-response/prevention instruments causing legal and cognitive uncertainty in the system. Moreover, three levels of analysis are looked at to detect potential signs of a drift: The system level, i.e. the entire parliament, the individual-behavioral level, i.e. the behavior of single parliamentarians, and the role-orientation level, i.e. the parliamentarians' mindset. On the first two levels, a document analysis of laws, (parliamentary) documents and statements is conducted in order to uncover potential drifts from one functional logic to the other. In order to uncover possible shifts on the third level, 17 interviews were conducted with members of parliament, their staff, the *Bundestag's* administration and the executive branch.

This thesis is structured as follows: The first chapter elucidates the state-of-the-art in the academic debate about the role of national parliaments in the European Union, focusing on the observed discrepancy between formal right-endowment and *de facto* right-employment. For parliamentary systems the most prominent explanatory factor is identified to be the functional logic of 'New Dualism'. The second chapter then examines the *Bundestag* specifically. How does the aforementioned reluctance play out in this particular case, and why is it predominantly related to the system's overall functional logic? The third chapter further spells out the crisis measures taken on the EU level as an external shock causing both legal and cognitive uncertainty and explains their hypothesized effect on the system's functional logic. Chapter four introduces the methodology of document analysis and semi-structured elite interviews, while chapter five constitutes the empirical analysis on the three aforementioned levels focusing on the EFSF. In the conclusion, broader implications of the findings are discussed.

1. National parliaments and European integration

Since the entry into force of the Single European Act in 1987, which, after a long period of stagnation in the integration process, transferred more policy competencies to the European level and introduced Qualified Majority Votes (QMV) in the Council, and especially with the Maastricht Treaty of 1993, in which the creation of the Economic and Monetary Union and the expansion of QMV were agreed upon, scholars and politicians alike became increasingly

¹ The issues analyzed in this thesis are ever-evolving, thus March 31, 2012 is defined as an endpoint beyond which newest developments are not included.

concerned with the democratic quality of the European polity in general and the role of national parliaments within it in particular (Auel & Rittberger 2006: 136-137; Sprungk 2003: 1): “The intensified debate on the democratic legitimacy of the European Union (...) has pushed national parliaments to center-stage of public as well as academic interest” (Auel 2005: 303).

Much has been written on the (non-)existence of diverse variants of the European Union’s democratic deficit(s), diagnosing a plethora of symptoms and remedies (Abromeit 1998; Höreth 1999; Kielmansegg 2003; Majone 1996, 1998; Moravcsik 2002; Scharpf 1997, 1999; good overview: Holzinger 2005). With regard to the position of national parliaments in the EU, the democratic deficit can be said to pertain to two dimensions (Follesdall & Hix 2006; Strohmeier 2007: 24-30): Firstly, national parliaments as the ultimate locus of citizens’ representation in the decision-making process in a democratic political system (Huber 2001: 11; Schüttemeyer 2007: 17) have gradually been dispossessed of a large portion of their legislative competencies due to their delegation to the European level. Secondly, one can observe a shift in power in favor of the executive branch enjoying a prerogative as the main European actor at the expense of the legislative. The latter is increasingly unable to control the former’s behavior in behind-closed-door negotiations in which the government can be outvoted. While the intergovernmental chain of input legitimacy² of the EU multi-level system (Scharpf 1988) is thus increasingly coming under pressure, the second pillar of the so-called “dual model of legitimacy” (Töller 2004: 26; Kirsch 2008: 87ff), namely the supranational legitimization via the European Parliament (EP) is considered to still be too weak to compensate. Despite the gradual expansion of its competencies, especially with the co-decision procedure becoming the ordinary decision-rule in the Lisbon Treaty of 2009, it is not yet a full-fledged parliament: Although directly elected, it cannot alter a government and citizens thus do not have the feeling that their votes make a difference with regard to the EU’s institutional set-up. Hence, voter turnout is low in EP elections, thus it can be argued that the parliament also lacks the citizens’ support (also for the following Holzinger 2005: 98-103). This shortcoming is believed to be further aggravated by a lack of intermediary structures as a ‘transmission belt’ between the citizens and the political system. There are no European parties, only infant structures of European media and consequently not yet a

² Defined by Scharpf (1997: 19; 1999: 17-18) referencing Lincoln’s Gettysburg-Address as “government by the people”, i.e. legitimacy of a political order deriving from citizens’ participation in the decision-making-process.

European public sphere (Gerhards 2000; Höreth 1999: 59ff). This assertion ultimately rests on the notion of a structural non-existence of a European “demos” (Weiler et al. 1995: 9; Kielmansegg 2003; Trenz et al. 2003), i.e. a European people with a collective identity based on a “communication-, experience- and collective memory community” (Kielmansegg 2003: 58ff, author’s translation) as the fundamental prerequisite for accepting binding decisions (Strohmeier 2007: 24-30). In this view, a two-pillar legitimacy structure of the European Union remains essential, with national parliaments at its core and the direct legitimacy via the EP exercising a complementary function, as the basic underpinnings of democracy are still only supplied within the national context (Höreth 1999: 94). Having thus established why the gradual disempowerment of national parliaments as the foremost institution holding the government accountable and representing the citizens constitutes “the core of the EU’s democratic deficit” (Töller 2004: 26), in short, why we should bother about the effect of European integration on national parliaments in the first place, the questions ultimately become how they are precisely affected and how they manage to cope.

1.1 Deparliamentarization and Europeanization: Formal adaption, but *de facto* passivity

This section will provide a brief account of what European integration has done to two of the core duties of national parliaments, namely their legislative and control functions (Marschall 2005: 139ff; Rudzio 2006: 197), and how the parliaments have reacted to these challenges. As the focus of this thesis is the German *Bundestag*, this theoretical overview is not meant to be exhaustive, but rather functions as a contextualization for the specific case under study (for a more comprehensive, state-of-the-art overview (Dieringer 2005: 11-15; Janowski 2005: 23-26).

In academic literature, the European integration process is conceptualized as one of the main causes of the so-called *thesis of deparliamentarization* (Schüttemeyer 2009: 8-10; Marschall 2005: 303; Zier 2005: 341), broadly defined as a “loss of functions and relevance of parliaments especially with regard to the control of political decisions” (Jachtenfuchs 2010: 202, author’s translation). In the EU context, national parliaments are generally viewed to have lost both constitutionally and politically (Raunio & Hix 2001: 142-143; O’Brennan & Raunio 2007: 1-5; Raunio 2011: 304): With regard to a parliament’s constitutional right to ultimately decide on legislative acts, this disempowerment pertains to the continuous

transfer of more and more of these competencies to the EU level, with national parliaments not being directly involved in the EU decision-making process and at best indirectly influencing the European agenda (Auel 2005: 306-307).³ With regard to primary law, the member states remain the ‘masters of the treaties’, hence in most countries, it is the national parliaments that have to ultimately ratify these transfers of competencies and other treaty changes, albeit some even having provisions for referenda (Schulz 2011: 27). While in the past, parliaments were usually confronted with mere ‘take-it-or-leave-it’ options and ready-made ‘package-deals’ by the executive as the one solely endowed with negotiation power on the EU level (O’Brennan & Raunio 2007: 3), the Lisbon Treaty (Art. 48, 3 TEU) now obliges the setting up of a convent including members of national parliaments to enhance *ex ante* incorporation. Yet the final intergovernmental conference still has the ultimate right to decide whether or not to take the convent’s recommendations into account; “the formal role of national parliaments thus does not experience an all too profound upgrade” (Schulz 2011: 28, author’s translation).

The national legislatures have consequently, and deliberately, ceded their legislative powers in a wide range of areas. In the realm of secondary law, they only retained a certain leeway of implementation in the case of EU directives as opposed to binding EU regulations (Demuth 2009: 167). Although figures attempting to quantify the amount of legislation originating on the European level are much contested⁴, an increasing loss of the legislative function is undeniable (*ibid.*: 178). With ever deeper integration having gradually encroached on this function, the national parliaments can mainly aim at *controlling* their governments’ activities on the European level as much as possible. But this is precisely where they have lost politically with regard to the balance of power between the executive and the legislative: With the Lisbon Treaty, QMV became the standard voting procedure in the Council for most policy areas (Art. 16, 3 TEU), which makes it extremely hard for national parliaments to obligate governments to make *ex ante* commitments, and when outvoted the intergovernmental chain of legitimacy breaks down (Raunio 2011: 304). *A priori* binding becomes equally difficult in the opaque European Council (EuCo) negotiations ‘à la Monnet’. “(O)n the European level the government can always claim the necessity of supranational

³ Since the Lisbon Treaty, however, national parliaments do in fact possess some new direct access points to the European level with the reasoned opinion (Art. 5 TEU and Art. 6 of the 2nd Protocol) and subsidiarity complaints to the ECJ (*ibid.* Art. 8). The direct information provision to national parliaments by the Commission is enhanced in the new 1st Protocol.

⁴ For a discussion on the “80%-myth”: Höhlscheidt & Hoppe 2010; König & Mäder 2008; Töller 2008

compromise and thus evade scrutiny and influence at home” (Schüttemeyer 2009: 9). Further aggravated by the complex EU decision-making process, the national parliaments additionally suffer from an informational disadvantage vis-à-vis the executive that also exists in the national context due to the former’s concentration of expertise, but is especially prominent with regard to European integration (Auel 2005: 307).

In a nutshell, the national parliaments’ gradual loss of the legislative function weakens their constitutional position in the political system, with the hindrance of their control function further altering the institutional balance between executive and legislative. While this assessment has led some authors to attest an inevitable “erosion of parliamentary democracy” (Andersen & Burns 1996) with European integration even ultimately “strengthening the state” (Moravcsik 1994) despite the loss of external sovereignty, other scholars, such as Raunio and Hix (2001) and, to a lesser extent, Auel and Rittberger (2006) postulate the opposite notion: Precisely *because* national parliaments make the deliberate decision to delegate legislative powers, they try to enhance both their oversight and participation rights. The former thus primarily view national parliaments as self-mutilating, at best reactive “losers” and “victims” of European integration (Maurer 2001: 27ff) suffering from a “creeping de-parliamentarization” (Benz 2005: 508). Conversely, the latter are inclined to depict them as evolving “competitive actors” (O’Brennan & Raunio 2007) learning to “fight back” (Raunio & Hix 2001: 142), even if ‘late-coming’ (Maurer & Wessels 2001).

It seems fair to argue for a more differentiated deparliamentarization thesis, acknowledging the empirical fact of an increasingly *active* role of national parliaments in response to the pressures emanating from European integration (Auel 2005: 306ff). These are usually captured within the contested concept of *Europeanization* (good overview of its multiple features Auel 2006b; Featherstone & Radaelli 2003; Knill 2005), broadly referring to the European integration process as the independent variable, having a feedback effect on the domestic polity, policy and politics, and thus causing adaptive mechanisms.

Regarding the adaption of national parliaments, academic literature is abundant and a thorough review would be beyond the scope of this thesis. Nonetheless, the basic tenants shall be highlighted in order to locate the German *Bundestag* within it, bearing in mind the essential distinction between the *de jure* adaption of formal rights and procedures which Auel terms “institutional Europeanization” (2007: 487) and the *de facto* change in the “living constitution” (Sprungk 2003: 133), i.e. the actual utilization of these formal rights and

possible alternative adaptive strategies, commonly referred to as “strategic Europeanization” (Auel 2006a: 249). At first, most authors focused on the former with legalist accounts of formal changes dominating the field (Höhlscheidt 2000; Huber 2001; Kamann 1997). Comparative cross-country studies subsequently attempted to rank national parliaments according to their respective strength assessing their activities in both the national and European arena, still very much looking at formalities and somewhat neglecting actual parliamentary practice (Janowski 2005; Maurer & Wessels 2001, Maurer 2005; Weber-Panariello 1995). Only later, attention was gradually shifted to the latter (Auel 2003, 2007; Auel & Benz 2007; O’Brennan & Raunio 2007; Raunio 2005, 2007; Sprungk 2007; Töller 2009), not least due to more specific case studies appearing (Auel 2006a; Demuth 2009; Rozenberg 2011; Schulz 2011).

Despite the valid qualification that national parliaments have by no means reacted uniformly to the integration process, thus clearly neglecting the notion of convergence, empirical research shows that they have, albeit late, slowly and rather incrementally adapted their formal rights and procedures to the challenges described above: National parliaments, even if differently so, have established some form of specialized European affairs committee, increased their oversight ability through the establishment of formal rights of information-provision and enhanced participation most commonly in the form of (more or less, legally and/or politically binding) resolutions. Yet, at the same time, there seems to be a surprisingly uniform reluctance to make active and effective use of these formal rights and structures (Auel 2006a: 250ff; Auel 2007: 491; Auel & Benz 2005: 372-373; Janowski 2005: 22).⁵ Once again recalling the considerations derived from democracy theory, the general question famously raised by Norton thus becomes particularly relevant in the EU context: “What is remarkable about legislatures is not their power to say no to government, but rather their reluctance to employ that power” (1998: 192). But what can account for this surprising empirical reality? Why do national parliaments in general seem hesitant to employ the newly acquired and continuously expanded formal rights?

⁵ This trend is not equally strong for all national parliaments as they do of course not only differ with regard to formal right-endowment, but also de facto right-employment. Nonetheless, the basic discrepancy remains empirically valid (Auel & Benz 2005).

1.2 Explaining reluctance: The functional logic of parliamentary democracy

This section will provide a snapshot of the plethora of possible explanations for this puzzle, yet will focus on the single most relevant explanatory factor for the case of the German *Bundestag* as the highest constitutional organ of a *parliamentary democracy*, namely the functional logic of the parliamentary system and its fundamental incompatibility with the installed formal rights.

The most straightforward argument attests many parliaments a general lack of capacity to cope with the ever growing workload, leading to an information overload, with parliamentarians being increasingly overwhelmed by the sheer quantity of oftentimes very technical documents, resulting in a general inability to efficiently process the information provided. Besides this scope-problem, most authors also acknowledge a problem with regard to timing: Frequently, important documents reach the parliaments rather late (regarding secondary law sometimes after it has already been agreed upon), hence undeniably undermining the national parliaments' ability to exert any decisive influence (Auel 2006: 256; Auel & Benz 2007: 67ff; Raunio 2007: 161-163).

Saalfeld (2003) puts forward an alternative explanation conceiving parliamentarians as rational actors primarily driven by re-election motives: In essence, he accounts for the generally hesitant use of formal rights by asserting that it is not profitable for a member of parliament to invest his scarce resource of time in EU issues as they are complex, generally of low electoral salience compared to domestic issues, and their outcome highly uncertain due to the multiple players involved. Put differently, if the parliamentarian cannot reap the electoral fruits of his or her engagement, (s)he will simply not devote time to it.

Furthermore, parliamentarians are assumed to realize a fundamental dilemma their employment of formal participation rights will cause with regard to the actions of the executive on the European level (Auel 2006a: 259; Strohmeier 2007): Too tightly constraining resolutions are bound to be underused as these maneuvers will invariably lead to a loss of leeway and negotiation power of the government on the European level (Dahl 1994).

Other authors point to more structural arguments, with the degree of a pro-European consensus among political elites generally favoring deeper integration most prominently figuring as an explanatory variable for the resistance to employ formally established rights.

In this view, a strong pro-European stance will invariably lead to low political scrutiny (Auel 2006a: 256-257) as there is an implicit agreement to not use European issues as a bone of party contention. Empirical research has repeatedly shown that a high degree of consensus among national parliamentarians does in fact lead to lower awareness of the own controlling role in EU matters (Maurer & Wessels 2001: 20; Sprungk 2007: 151-153).

While these explanatory factors refer to the parliament as a whole, for legislatives in a parliamentary democracy, it is, however, essential to distinguish between two kinds of parliamentarians in order to do justice to the system's functional logic: Those belonging to the governing majority carrying the government and those belonging to the opposition⁶ (also for the following Auel 2006a: 258ff; 2007: 491ff; Rudzio 2006: 197ff; Schüttemeyer 2007, 2009). It is a well-established notion in parliamentary research that in modern-day parliamentary systems the government (including the ministerial bureaucracy) and its parliamentary majority constitute an 'action unit' as the former is dependent on the support of the latter to remain stable and reign effectively because the parliament(ary majority) possesses the right to ultimately withdraw the government should it lose this trust: "(W)e all know that it is the first and foremost function of the majority in parliament to create government and keep it in office" (Schüttemeyer 2009: 5). Consistent with this so-called 'New Dualism', the cleavage runs between the government and its parliamentary majority on the one hand and the opposition on the other. Thus, the notion of 'Old Dualism' according to which the parliament as a whole was perceived to balance the government on the other side becomes obsolete due to this fundamental logic of parliamentary democracy constituting a mutual dependency relationship between the governing majority and its government; the *separation* of powers becomes a power *entanglement* (Auel & Benz 2007: 67; Schulz 2011: 163). Understanding this notion has essential consequences for understanding the behavior of parliamentarians when it comes to control in general (Schöne 2010: 267-273; Steffani 1989: 1325-1367; Zeh 2001: 41-49):

Turning to the governing majority first, its utmost goal is twofold: On the one hand, they want to uphold "the public impression of efficiency and competence" (Schüttemeyer 2009: 5), but on the other equally "keep a watchful eye on 'their' government's performance, as their own success depends on it" (*ibid.*: 6). Thus, members of the governing

⁶ This fundamental distinction was coined by Steffani (1979: 39-50; 1997: 125), defining the parliament's (governing majority's) right to withdraw the government as *the* decisive criterion for parliamentary as opposed to presidential systems.

majority will want to be closely involved, discuss and criticize their leaders' policies, but they will simply have no incentive to do this openly and in public (Auel 2006a: 259) as it would signal incoherence and undermine credibility. Hence, it is not true that there won't be *any* influence and control as a result of the functional logic of parliamentary democracy, but instead it will simply be done behind closed doors in an interdependent fashion characterized by continuous internal involvement and mutual consultation with the government attempting to anticipate and incorporate possible opposition in its own rows at an early stage, and the majority on its part ensuring the consideration of its opinion in a common effort to smooth out dissent and reach the agreed upon policy goals (Schüttemeyer 2009: 6). This form of controlling influence is commonly called "cooperating" and "accompanying" (Schöne 2010: 271), also "monitoring scrutiny" (Auel 2007: 500).

Within this basic logic, the opposition is assigned the task of "political scrutiny" (*ibid.*), i.e. open and public criticism precisely via the use of formal interpellation rights, in most parliaments legally conceptualized as minority rights. It criticizes the government's and its majority's decisions in order to profile itself as a better alternative with the ultimate aim of regaining governing responsibility in the next elections or even toppling the government beforehand (Schöne 2010: 268-270). In sum, "(w)hile the opposition wants to uncover the weakness of the government and get rid of the latter in the next elections at the latest, the majority attempts to eliminate such weaknesses in order to keep its government" (Zeh 2001: 44).

This fundamental division of labor is equally true when it comes to the (non-)usage of formal rights by national parliaments, more precisely the governing majority, in EU affairs (Auel 2006a: 250; 258ff; 2007: 491ff; Maurer & Wessels 2001: 22; Sprungk 2003: 31). Even though the right to draft more or less binding mandates/resolutions exists in most parliamentary systems with regard to secondary law, they are – in line with the system's logic – not used all too frequently and if so, oftentimes supporting the government's position (Auel 2006a: 261; Sprungk 2007), as seriously challenging the government with regard to European issues would mean the admittedly rare occasion of valuing them more highly than the domestic stability of one's government (Schulz 2011: 128-129; Zier 2005: 341). In sum, most "institutional provisions for parliamentary scrutiny in EU affairs prove to be dysfunctional in practice due to their limited compatibility with the overall functioning of the parliamentary system" (Auel 2006a: 250).

Having established the fundamental logic of parliamentary democracy as *the* key explanatory factor for the lack of usage of formal participation and scrutiny rights and for the government majority's hesitance to excessively criticize one's own government openly in EU affairs, we now turn to the question of how this plays out in the case of the German *Bundestag*. As mentioned in the Introduction, the German parliament is chosen as a particularly interesting case to study because of the wide discrepancy between formal right-endowment and *de facto* right-employment. Overall, the German parliamentary system furthermore functions according to the logic of 'New Dualism' (Schüttemeyer 2009).

2. The German *Bundestag* – a “supportive scrutinizer”⁷ and informal “policy influencer”⁸

The German *Bundestag* is among the most frequently studied national parliaments in the EU as far as its role in European politics is concerned (for the first analyses, see: Töller 1995; Saalfeld 1996, 1998; Weber-Panariello 1995; for more recent studies, see: Auel 2006a; Demuth 2009; Hölscheidt 2001; Schulz 2011; Sprungk 2007, 2010). While some (legal) studies again primarily focus on formal rights and procedural adaption, others take into account informal mechanisms of strategic Europeanization. Among the latter, there is a wide-spread consensus that the German parliament has indeed continuously, albeit slowly and incrementally, expanded its formal rights since the Maastricht Treaty's 'wake-up call' (Auel 2006a: 254; Grünhage 2007: 173-174, 340; Sprungk 2010: 10-11; Schulz 2011: 169-170), yet is reluctant to use them (Schulz 2011: 117). The primary reason for this is the “loyalty of the governing coalition vis-à-vis the government as *the* formative parliamentary behavioral pattern” (*ibid.*: 170, author's translation). In the following, the *Bundestag's* formal adaption with regard to institutional structures/procedures and information/participation rights is recapped. As a full historical overview (Grünhage 2007: 117-175) is beyond the scope of this thesis, the current provisions are highlighted and the *Bundestag's* reluctance to use them is related to the system's functional logic of 'New Dualism'.

⁷ Hölscheidt 2001: 140

⁸ Auel & Rittberger 2006: 135

2.1 Formal adaption: From “onlooker”⁹ to quite some *de jure* power

The successive increase in formal information and participation rights as well as procedural-organizational adjustments are marked by two aforementioned watershed-events accelerating integration: The Maastricht Treaty (1993) accompanied by the Maastricht judgment of the *Bundesverfassungsgericht* (Federal Constitutional Court, FCC) of October 12, 1993¹⁰, and the Lisbon Treaty (2009) along with the FCC judgment of June 30, 2009¹¹ (also for the following Schulz 2011: 33-48).

On the constitutional level, Art. 23 and 45 of the German Basic Law (GG) are decisive since 1992: After various failed predecessors (Grünhage 2007: 132-144), the European Affairs Committee (EAC) is constitutionally guaranteed in Art. 45 GG as a permanent committee. Following unsuccessful attempts during the 12th legislative term, it constituted itself for the first time in December 1994 (13th legislative term), laying out quite extensive special rights in §93a of the *Bundestag’s* rules of procedure (*Geschäftsordnung, GO-BT*) (Hölscheidt 2000: 3-5; Schulz 2011: 93-99). Moreover, the parliament adjusted its administrative structure creating the European division PA1; since 2008 a prioritizing mechanism for EU items is laid out in §93, 3 *GO-BT*, and a liaison office has been established in Brussels in 2007 (Schulz 2011: 66-69).

Art. 23 GG (reformed from the ‘reunification article’ to the ‘Europe article’ in 1992 and again in 2009 to include subsidiarity complaints in paragraph 1a) constitutes the “*core provision*” (Hölscheidt 2000: 3, author’s translation), ensuring the twofold intention of Germany’s participation in the development of European integration in order to realize a united Europe (Art. 23, 1, 1) coupled with the prerequisites for competency transfer (Art. 23, 1, 2) and EU *primary law* changes (Art. 23, 1, 3) as well as information about and participation in *secondary law* matters (Art. 23, 2-3). With regard to primary law change, it can be said that constitutionally the *Bundestag* is at the core due to the necessity of a law carried by a two-thirds majority, and its ultimate ratification responsibility (Schulz 2011: 35). Turning to the ordinary law provisions referring to primary law adjustments, the new possibilities of incremental competency transfer in the Lisbon Treaty (*inter alia* simplified revision procedure, passerelle clause (Art. 48, 6-7 TEU)) led the FCC to request a two-third-

⁹ Grünhage 2007: 173, author’s translation

¹⁰ *BVerfGE* 89, 115-Maastricht

¹¹ *BVerfGE* 123, 267 - Lisbon

majority legal *provisio* also in these cases for the accompanying law of the Lisbon Treaty to be constitutional. A request the parliamentarians subsequently complied with in the so-called *Integrationsverantwortungsgesetz*¹² ('Responsibility for Integration Act') (*ibid.*: 43-44; Sprungk 2010: 11).

With regard to *secondary law*, three notions are important (Schulz 2011: 37-42; Sprungk 2010: 10-11): Firstly, Art. 23, 2, 1 constitutes the *Bundestag's* general right of *Mitwirkung* (participation, not *Festlegung!*), assigning an actively involved, potentially influential, yet not legally binding role to the parliament in EU matters, while the executive essentially remains in the driver's seat (Auel & Rittberger 2006: 135). Secondly, this generally "parliament-friendly thrust" (Schulz 2011: 37) is further spelled out in Art. 23, 2, 2 obliging the government to inform the parliament comprehensively and as early as possible. Thirdly, Art. 23, 2, 3 grants the right to draft resolutions *prior to* EU legislative acts. In order to further spell out these provisions, the parliament passed the accompanying law concerning the cooperation of the government and the German *Bundestag* in EU matters (*EUZBBG*) in 1993.¹³ Here, a distinction is made between resolutions (to be recommended by the lead-committee) regarding EU matters in general – inter alia Commission Green papers – based on Art. 23, 2, and those concerning EU legislative acts based on Art. 23, 3: In the first case, if the government cannot achieve all the goals spelled out in the resolution, it is obligated to state the reasons (in plenary debate, if requested). In the second case, the government has to file a parliamentary reserve and reach agreement with the parliament which again has to make a formal decision. If once more the agreement found in Brussels deviates, the government is obliged to explain. But it can always depart from resolutions for 'important reasons concerning integration and foreign policy'. Thus, resolutions constitute a strong *political* signal, yet by no means an imperative mandate.

Further details were laid down in the non-litigable agreement between the German *Bundestag* and the government concerning the cooperation in EU affairs (BBV) in 2006.¹⁴ When the FCC overturned the original reform proposals by the parliament in its ruling of June 2009, the *EUZBBG* was improved: It now incorporated the former BBV, which thus became litigable, and meticulously enumerated which documents have to be forwarded and

¹² *Bundesgesetzblatt I*, 2009, No. 60: 3022

¹³ *Bundesgesetzblatt I*, 1993, No. 9: 311

¹⁴ *Bundesgesetzblatt I*, 2006, No. 44: 2177

accompanied by which kind of report¹⁵ (Schulz 2011: 45-47). Finally, it has to be highlighted that in its usual interpretation Art. 23 applies to EU matters, i.e. any document relating to the EU's secondary law activity and *not* to intergovernmental agreements between member states, an important distinction that will be elaborated on in chapter three. In sum, the German *Bundestag* has considerably strengthened its formal rights and procedural structures over the years, constituting a solid basis for early information reception, adequate processing capacity and meaningful *ex ante* participation. The apparent reluctance to use them will be exemplified in the following pages and mainly traced back to the functional logic of the parliamentary system in Germany.

2.2 Reluctance to use formal rights: 'New Dualism' and parliamentary scrutiny

Focusing on the parliament's rights in secondary law, one has to distinguish between those concerning participation and those concerning information. With regard to the latter, the *Bundestag* is still mainly dependent on the information provided by the German government (Schulz 2011: 63) despite the enhancement of direct forwarding by the Commission since the Lisbon Treaty, and attempts by the *Bundestag* and its members to acquire independent information via expert-hearings and activities on the European level¹⁶ (Sprungk 2003: 11). When looking at information processing, however, it seems fair to argue that the assertion of information overload by Saalfeld (1996, 1998) is somewhat outdated. As Schulz exemplifies, nowadays the *Bundestag* is well-informed and manages to prioritize the abundance of documents quite efficiently (2011: 53-75).

With regard to participation, it can be said that the instrument of resolutions is neither used extensively, nor to pressure the government openly (Auel 2006a: 254; Schulz 2011: 88; Sprungk 2010: 11). Upon receiving EU documents, the lead-committee has three choices: It can either simply take note of the document which will be published in the annex of the plenary protocol, it can draft a recommendation (*Beschlussempfehlung*) or table a separate motion (*Antrag*) for resolution. Lastly, it can suggest whether to let the plenary simply vote on the resolutions without debate or take them up for debate. Sometimes written debate contributions are simply attached to the protocol, however (Schulz 2011: 84–85).

¹⁵ *Bundesgesetzblatt I*, 2009, No. 60: 3026

¹⁶ Auel terms these parliamentarians networking on the EU level "Euro-wizards" (2006a: 262).

Looking at the *Datenhandbuch of the German Bundestag 1990-2010* (q.v. Table 1 Annex), it becomes apparent that the percentage of received EU documents on which a resolution was drafted varies from a high 12% in the 12th legislative period (1990-1994), most likely due to the fact that the right to resolution was newly introduced in 1992, to around 4-6% in the two following legislative periods (an average of 5% is also estimated by Hölscheidt (2000: 1) and Sprungk (2003: 12-14)), to only 2.5% in the 15th legislative period (2002-2005) and even 1.5% in the 16th (2005-2009). According to Auel (2006: 254), in the legislative period of 1994-1998 only 1.5% of the resolutions drafted were actually debated in the plenary; between 1998-2002 in only 2% plenary debates were held.

A recent analysis by Schulz (2011: 86-91) confirms this trend still today: Based on the monitoring report of PA1 of December 9, 2008 for the time period September 1, 2007 to August 31, 2008, he counts 24 resolutions on 1.060 EU documents (2.3%), of which only 9 (1%) reached the stage of plenary debate mostly on uncontroversial topics such as the dialogue with civil society. Of the 24 resolutions, 14 referred to EU matters and 10 to legislative acts, but a parliamentary reserve did not have to be filed by the government in any of the cases. As the latest monitoring report is not yet available, own calculations on the basis of a search in the online documentation and information system of the *Bundestag* have to suffice for most recent data. With the total number of EU documents not listed, a comparable time span of one year (February 1, 2010-January 31, 2011) was randomly chosen, assuming the number of documents to remain relatively stable since 2008. Six resolutions on legislative acts and 32 on EU matters were counted, with no parliamentary reserve being filed again in the case of the former. Interestingly, out of these 38 resolutions, 24 were debated (two in the case of legislative acts, 22 in general EU matters).

In addition to the rather small number of resolutions and plenary debates, it becomes evident that most of them are of affirmative nature, i.e. hardly deviating from or being absolutely identical with and supportive of the government's negotiation position (Auel 2006a: 259; Schulz 2011: 88). Moreover, debates are usually conducted as so-called *verbundene Debatten*, i.e. in connection with domestic issues. Thus, the political signal is low and the parliament does not use this tool to publicly pressure its government (Auel 2006a: 255).

But it would be utterly wrong to equate these patterns with an inactive *Bundestag*. On the contrary, they are precisely a logical consequence of the functional logic of parliamentary democracy described above. The governing majority is incorporated internally during the entire process (Schüttemeyer 2009: 6; Schulz 2011: 121-124): In the closed working groups (*Fraktionsarbeitsgruppen*) consisting of committee members of the respective governing parliamentary party group and members of the government/ministerial bureaucracy, parliamentary group meetings (*Fraktionssitzungen*) including all members thereof, coordinating coalition fora of leading coalition politicians (*Koalitionsgremien*) and so-called *Ressortbruderschaften* (“sectoral fraternities” (Schüttemeyer 2009: 6)) ensuring contact between civil servants and the respective experts in the governing coalition. Hence, the latter is a classical monitoring scrutinizer exercising “political-directional control” (Schulz 2011: 166, author’s translation). Resolutions are thus oftentimes deliberately organized to strengthen Germany’s negotiation position on the European level, but would generally not publicly disavow the own government as a compromise has been reached beforehand (*ibid.*: 172).

According to the functional logic, the opposition would be the ‘natural’ political scrutinizer via formal right-employment. Yet, the weak use of interpellation rights, i.e. *Kleine, Große Anfragen, Aktuelle Stunden* as minority rights (Schüttemeyer 2007: 6-7), is a trend that still persists today (Demuth 2009: 201-202; Schulz 2011: 130-138; Sprungk 2003: 11-12). The aforementioned pro-European consensus is highly prevalent in Germany and can, coupled with the lack of salience of EU topics, be used to explain this behavior:

“The loyalty of the governing majority immanent in the system and incidentally indispensable for a stable government continues in European questions – strengthened through the broad pro-integration consensus – and is moreover becoming the dominant parliamentary behavioral pattern in dealing with European matters through the exemplified weakness of the opposition in this policy area” (Schulz 2011: 160, author’s translation).

What happens to the functional logic of ‘New Dualism’ now, if an exogenous stimulus, namely the European debt crisis, hits this system as an external shock?

3. The European debt crisis: an external shock to the system

The European debt crisis, which started with the Greek crisis in early 2010, and soon had other countries in stranglehold, ultimately endangering the Euro as the common currency, is among *the* most dramatic events challenging the EU in recent years. Within the framework of this thesis, it hits the existing system of *Bundestag* scrutiny in EU matters functioning according to the logic of 'New Dualism' as an exogenous stimulus providing an altered environment. More accurately, it is the specific character of the policy reactions to the crisis on the European level which constitutes the 'shock-notion'. The research question then becomes: Does this external disturbance as the independent variable affect the functional logic of the parliamentary system as the dependent variable in a sense that one can observe a gradual drift from 'New' to 'Old Dualism'?

But before turning to the operationalization of the theoretical argument, some clarification as to the definition of the independent variable, namely the special features of the policy reactions to the crisis, is in order. So, then, why are these crisis reactions shocking the system?

3.1 Intergovernmental cooperation touching EU matters – a case of legal uncertainty

In order to systematize the measures taken within the last two years introducing landslide changes to the EU economic governance structure, one has to distinguish between ad-hoc crisis management, permanent stabilization measures and long-term reform of economic governance in the Euro area and beyond (Schwarzer 2011: 13-18). The first includes the first Greek rescue package of May 2, 2010 and the temporary European Financial Stability Facility (EFSF) for the entire Euro area of May 9, 2010 currently drawn upon by Ireland, Portugal and Greece in its second rescue package. The second refers to the European Stability Mechanism (ESM) agreed upon by the European Council on January 30, 2011 (with the corresponding treaty change of Art. 136 TFEU agreed on the EuCo summit of December 16, 2010). Finally, the coordination of economic, fiscal and financial policy *inter alia* includes the European Semester, the 'Six Pack' (prominently the reform of the Stability and Growth Pact), the 'Euro-Plus-Pact', and most recently the Fiscal Compact.

What is essential is that all these measures are instances of *intergovernmental cooperation* between member states on the European level, or – as in the case of the European Semester/‘Six Pack’ – agreed upon by heads of state or government and subsequently executed by the community institutions via the ordinary legislative procedure (also for the following Kietz & von Ondarza 2011: 8; von Ondarza 2011: 19-23, 36; Schwarzer 2011: 8; 19). The long-existing tendency of the European Council gradually to assume the role of the political top-down agenda-setter was codified and enhanced by the Lisbon Treaty, which granted it the status of a formal EU institution (Art. 15 TEU), excluding the foreign ministers, and assigning it a permanent president (Kaczynski et al. 2010: 7-13). This set-up coupled with the debt crisis has led to the fact that intergovernmental solutions outside EU structures, bargained by heads of state or government in behind-closed-door negotiations have become the dominant form of cooperation. Furthermore, they are either the only way forward below fundamental treaty change because the EU lacks competencies, or because some countries decided not to join (i.e. UK and Czech Republic in the original Fiscal Union). As the EP does not possess formal rights here, “the *Bundestag* (...) (has) to be the more involved, the more Union politics are based on intergovernmental coordination processes, i.e. where it is the governments of the member states deciding” (Degenhart 2011: 376, author’s translation).

But precisely the fact that the European Council is indeed the *political* driving force, yet does not enjoy *legislative* power, is the problem for the basic rationale behind the *Bundestag’s* parliamentary participation and information rights (von Ondarza 2011: 36). It opens up a *window of legal uncertainty*: Strictly speaking, the rights depicted above function as a compensation for lost legislative competencies transferred to the EU level and do *not* address intergovernmental cooperation within the EU context. On the other hand, they also compensate for the shift in power structures caused by the government being the one present in behind-closed-door negotiations on the European level. The question ultimately becomes what exactly constitutes an EU matter according to Art. 23 GG. Is it confined to secondary law or does it somehow have to include these new intergovernmental mechanisms within the EU context as well (Nettesheim 2011: 765)?¹⁷

¹⁷ The FCC still has to decide on an according claim by the Green party concerning information practices surrounding the ‘Euro-Plus-Pact’/ESM.

Undeniably, under Art 59, 2 GG the German parliament has to ratify intergovernmental treaties by passing a federal law (Degenhart 2011: 376). According to Art. 115 GG, the Finance Ministry can only take on guarantees, if authorized by a federal law, outlining the exact amounts in the case of the ad-hoc and permanent crisis mechanisms (Schröder & Rohleder 2011: 2). Here, the question becomes whether it is sufficient to simply have this *ex-post control* and to what extent *ex-ante participation* has to be written into the national legislation. The FCC ruling of September 7, 2011¹⁸ is decisive here as it prescribes a ‘responsibility for integration’ also in the case of intergovernmental budget-relevant decisions as every major rescue-measure has to be authorized, and sufficient parliamentary influence has to also be guaranteed with regard to the fashion the money is spent (*ibid.*: 2; Kranen & Löhr 2011: 760). In sum, this legal uncertainty constitutes a crucial external shock to the system insofar as it creates a window of opportunity for change in existing rights by the parliament itself. But there is a second feature of these intergovernmental measures which highlights their character as “extraordinary decision(-procedures) with which the EU has reacted to the Euro crisis” (von Ondarza 2011: 34, author’s translation): Namely their relation to the ‘crown jewels’ of any parliament, its power of the purse as the “democratic foundation stone” (Wehner 2006: 767).

3.2 The *Bundestag*’s power of the purse – a case of cognitive uncertainty

Historically, the power of the purse is among *the* core constitutional rights of any parliament in a parliamentary democracy, also of the *Bundestag* (Art. 110 GG). After all, it was due to the powerful credo ‘No taxation without representation’ parliaments were formed in the first place, thus they ought to be the ultimate decision locus of what happens with taxpayers’ money. Formally among the cornerstones of democracy, the actual budgetary role of national parliaments differs widely when assessed according to the *de facto* institutional capacity as measured by various existing indices. *Inter alia* these comprise amendment power, executive flexibility during implementation, access to budgetary information and time for scrutiny (Wehner 2006). Similar to other cross-national studies on

¹⁸ *BVerfG*, 2 BvR 987/10: The FCC denied the complaint concerning the Greek rescue package and the EFSF, arguing that the voting right in Art. 38, 1 GG was not touched as the budgetary power was not unduly hollowed out by the guarantees. It did, however, demand a continuous influence by the *Bundestag* on decisions to take on such guarantees (*q.v.* section 3.2).

budgetary power (Coombes 1976; Schick 2002), Wehner (2006: 777) locates the *Bundestag* among the comparatively more powerful parliaments, with the Nordic countries, Austria and the USA being stronger. The *Bundestag* passes its budget by law, the influential budget committee is traditionally headed by a member of the opposition, yet the governing majority ultimately pushes through its priorities (Schüttemeyer 2007: 8).

How, then, do the crisis measures create *cognitive uncertainty* regarding this constitutionally important and comparatively strong power of the purse of the *Bundestag*?

Undeniably, the measures taken do not only entail huge sums, but for the individual parliamentarian it becomes ever harder to assess when the *Bundestag* has actually committed itself in such a way that its budgetary right is hollowed out, which would render the parliamentary representation of the people's will (Art. 38 GG) impossible. In its aforementioned ruling (*q.v.* footnote 18), the FCC left major political leeway for the parliament refraining from setting a quantifiable ceiling: It is primarily the *Bundestag's* own decision which total sum of guarantees it still considers justifiable; a major amount does not *per se* tackle the power of the purse. Instead, the border is crossed, when the parliament commits itself to 'guarantee-automatisms' with unclear modalities, conditions and time frames that cannot be reversed and potentially cause unforeseeable fiscal strains, i.e. indeterminate authorizations *de facto* transferring the power of the purse to other actors. In other words, decisions on expenditure based on taxpayers' money may not be substantially 'supranationalized' to other actors and thus be taken away from the *Bundestag's* influence. Permanent intergovernmental commitments to assume liabilities are prohibited, especially when consequences are difficult to calculate (Kranen & Löhr 2011: 761; Schröder & Rohleder 2011: 2).

Thus, the measures taken create immense cognitive uncertainty with regard to what financial instrument actually entails what kind of risk for the national budget. This is a shock to the existing system insofar as it opens a *window of opportunity* for parliamentarians to – now that their core right is potentially touched upon – make sure that they are adequately involved (Degenhart 2011: 376). In the words of von Ondarza (2011: 36, author's translation): "As the magnitude of the rescue packages for Greece and the Euro has shown, it is precisely such political landmark-decisions that require parliamentary participation." How does this shock entailing legal and cognitive uncertainty now potentially affect the functional logic of 'New Dualism' as the dependent variable?

3.3 A gradual effect of the crisis measures on the functional logic of the *Bundestag*

Due to the legal uncertainty regarding the prescribed degree, type and manner of *Bundestag* participation and the cognitive uncertainty regarding the budgetary implications, a gradual move from the logic of 'New Dualism' to 'Old Dualism', i.e. an incremental adjustment of the respective cleavages, can be hypothesized. Put differently, the intergovernmental mechanisms potentially encroaching on the power of the purse can lead to the fact that the parliament as a whole more forcefully thumps its institutional self-interest vis-à-vis the government, instead of the governing majority quasi-naturally supporting its government publicly. Of course, it is not the aim to argue for a radical, immediate break due to the debt crisis, but rather to assess whether it has had some gradual effect. The main functional logics of 'New' and 'Old Dualism' are thus used as ideal-typical poles of a continuum in order to theoretically conceptualize a potential impact.

However, a note of caution is in order: If one agreed that the European debt crisis came as a shock to the system, then one also has to agree that we are still in the 'shock-phase' with legal implications of the FCC decisions and further developments on the European level pending. So to say, we are witnessing a 'gigantic, natural social sciences experiment' live as participant observers. Thus, it is simply too early to be able to *once and for all* assess the independent variable's effect on the logic of the parliamentary system as we are not yet back to 'normal times'. Due to this topicality as well as the limited scope, time and resources available for this thesis, the aim cannot be to test the theoretical propositions advanced above in the same comprehensive and fully controlled manner as would be possible with 'terminated' past events. What can be done very well, however, is to conduct an explorative study attempting to systematically uncover preliminary tendencies.

It is impossible to consider all intergovernmental policy measures equally, thus the focus will be on the temporary crisis mechanism EFSF for two main reasons. Firstly, a practical one: The EFSF has existed since May 2010 and will be merged with the ESM by July 2012¹⁹, thus it can be studied as the most 'completed stimulus' as opposed to many of the other measures still under negotiation or ratification. Secondly, and more importantly, it constitutes a prime example of both the legal and cognitive uncertainty explained above which will become clearer in the subsequent analysis.

¹⁹ Euro Area Finance Ministers (1) (*q.v.* Bibliography)

In order to systematically operationalize a potential gradual shift in the functional logic, three different levels of analysis shall be considered: Firstly, the system's level, secondly the individual behavior of parliamentarians, and lastly the role-orientation of the parliamentarians.

This division of analysis-foci is necessary to differentiate between multiple layers of possible drifts in functional logics. Consequently, the system's level pertains to tendencies uncovered for the parliament as a whole: Does the *Bundestag* (read its governing majority) make decisions pointing more in the direction of 'Old' than 'New Dualism' as described above? The individual-behavioral level signifies similar tendencies one stage below: Do individual parliamentarians behave at odds with 'New Dualism'? And finally, the role-orientation dimension as the 'lowest level' rests on the notion of parliamentarians' self-perception, a rather fuzzy category which has by itself attracted considerable academic interest (on the general role, *q.v.* Lemke-Müller 1999; Patzelt 1996, 1998; on the legitimacy-provision in the EU, *q.v.* Wessels 2003). In line with the notions of 'New' and 'Old Dualism', the ordinary German parliamentarian is commonly conceptualized to face two major reference groups (based on Schwarzmeier 2001: 79; Schulz 2011: 119-120): On the one hand, (s)he is either member of the governing coalition or member of the opposition, on the other hand, (s)he is also member of the parliamentary community (*Parlamentariergemeinschaft*) as a whole in the sense of a free parliamentarian elected by the people (Art. 38, 1, 2 GG) (*q.v.* Chart 1 Annex). While the first role-orientation affiliation is dominant in the current system, this might now gradually change with regard to the external shock. Having spelled out and operationalized the hypothesized effect of the independent on the dependent variable (*q.v.* Chart 2 Annex), the question becomes how to empirically assess it.

4. Methodology: Document analysis and semi-structured elite interviews

The empirical analysis consists of a method-mix with two distinct parts: In order to uncover tendencies on the first two levels (system's and individual-behavioral), a document analysis of the policy and politics processes surrounding the EFSF is carried out, while semi-structured elite interviews are deemed most adequate to reveal possible changes in role-orientations.

4.1 Document analysis

Of course one could think of conducting a fully systematic, category-based qualitative content analysis (Mayring 1995: 209-218, 2010) of a selected subset of official (parliamentary) documents and parliamentarians' statements to assess potential drifts on the first two levels. Yet, this is neither feasible within the scope of this thesis nor with regard to the aforementioned issue volatility. Instead, a 'loose' form of document analysis is chosen in this context more in line with causal process tracing aiming at closely delineating a "full 'storyline' with density and depth and an 'authentic' and fine-grained 'picture' of events within their contexts" (Blatter & Blume 2008: 319). At this point in time, closely tracing distinct pieces of evidence on the system's and the individual-behavioral level is simply faring better than a fully standardized analysis.

4.2 Semi-structured elite interviews

Regarding the third level of analysis, seventeen semi-structured elite interviews with selected members of parliament and/or their staff, of the *Bundestag's* administration and the executive (Federal Chancellery/Finance Ministry) were conducted across all parties from January 26 to February 16, 2012 (*q.v.* Table 2 Annex).

According to Littig (2009: 120-121), there is no such thing as *the* expert or elite interview and even the two terms cannot necessarily be used interchangeably. Experts are defined by their privileged access to research-relevant information and specific internal knowledge of structures, procedures and events. They are thus informants that possess knowledge inaccessible to the researcher through other sources. Oftentimes those experts are persons who also possess the authority to decide (*ibid.*: 119; Pfadenhauer 2009: 101). Within this rationale, the interviewee is less relevant as an individual, but more useful with regard to his/her function; (s)he is not an individual case, but chosen so as to represent a group (Mayer 2009: 37).

Sampling in qualitative research does not serve the purpose of statistical representation and generalization like in quantitative studies as a clearly defined population simply does not exist and is defined according to the research interest (Littig 2009: 123). Nonetheless, qualitative research does aim at some form of generalizing potential beyond a

specific case, thus the sampling has to be conducted in such a way that the result is at least exemplary (Mayer 2009: 39-41), minimizing the danger of selection bias in the target group due to the limited amount of sampling units and the fact that accessible elites may differ systematically in certain characteristics from non-accessible ones due to self-selection (Goldstein 2002: 669-670).

For the purpose of this thesis, the relevant experts are defined as the members of the EAC and the budget committee as – within the logic of the *Bundestag* as a working-parliament – those are the ones most knowledgeable about the structures, procedures and events under study. Through a “snowball approach” (Littig 2009: 124, author’s translation), interviewed members of the respective committees were asked for a suggestion on who of their colleagues was most involved/knowledgeable and could additionally be questioned.

For explorative expert interviews, the semi-structured kind with open-ended questions is the preferable format as an active and open dialogue with a freely answering interviewee is encouraged (Hansen et al. 1998: 67), while broad questions provide for structure and comparability, but leave enough space for ‘unexpected’ inside-knowledge and nuances only the expert can provide. With the guideline (*Leitfaden*), relevant aspects of the research question will not be forgotten, while the interviewer does not have to stick strictly to the order of the questions, either. (S)he can decide when to stop and when to encourage longer answers (Mayer 2009: 37-38). The interview goes beyond a simple ‘Q&A-approach,’ and thus has the potential to generate a “richer and more sensitive type of data” (Hansen et al. 1998: 258). Hence, the chosen interview-type is perfectly fit to uncover possible changes in role-orientations.

To that end, the questionnaire for this study (*q.v.* Annex) contains three sets of questions: The first three questions address the fundamental premises of the main argument: The first tackles the functional logic of the German parliamentary system regarding its implications for the *Bundestag’s* participation behavior in EU affairs. The second and third check for complementary explanatory variables for the de facto lack of an active scrutiny role, namely the efficiency–legitimacy dilemma and the general pro-European stance of the German parliament. The second set of questions (4-5) refers to the hypothesized effects of the European debt crisis, namely the legal implications of the intergovernmental nature of cooperation as well as its possible cognitive consequences regarding the power of the purse. Questions 6-9 finally assess the interviewees’ evaluation

of the evidence for potential, gradual shifts in the functional logic on the system's and individual-behavioral level. The last question directly addresses a potential shift in role-orientations.

In essence, the interviews have a dual purpose: Firstly, they elucidate how the parliamentarians themselves see the system's and individual-behavioral level developments depicted as evidence for a shift in functional logics: Do they even perceive them as drifts in the first place, and are they in their view caused by the characteristics of the independent variable advanced above? Secondly, does the way they frame these events hint at a gradual change in their self-perception of being a member of the governing majority/opposition towards a more parliamentarian attitude?

5. The European Financial Stability Facility (EFSF) and the functional logic of the *Bundestag*

Before diving into the analysis, it is essential to answer the following question: What is the EFSF and why does it constitute an external shock to the system causing legal and cognitive uncertainty? On May 7, 2010, only five days after the rescue package for Greece had failed to calm down the speculations on the financial markets, two new temporary crisis management instruments were agreed upon, the EFSF and the European Financial Stability Mechanism (EFSM), with the latter containing guarantees amounting to €60 bn of Commission emergency-aid under Art. 122 TFEU (also for the following Kranen & Löhr 2011: 759; Schwarzer 2011: 10, 13). The former is a Luxembourg-based, intergovernmental private special-purpose entity owned by the Euro area member states originally being able to give loans of up to €240 bn to struggling member states secured via €440 bn in guarantees to ensure its AAA-rating. Before its reform, Germany provided €123 bn in guarantees to the EFSF, i.e. the highest share of 27%.

This set-up created legal uncertainty as the federal law legalizing the EFSF according to Art. 115 GG, the so-called *Gesetz zur Übernahme von Gewährleistungsverpflichtungen im Rahmen eines europäischen Stabilitätsmechanismus (StabMechG)* had to also lay down the conditions under which the German government could issue instructions to the German member of the EFSF directory which makes decisions unanimously. Thus, the question became when and how to incorporate the *Bundestag* beyond the constitutionally necessary

guarantee-authorization (Kranen & Löhr 2011: 759). The aforementioned FCC ruling is of pivotal importance in this regard as it provides for *a priori* stronger participation of the *Bundestag* as will become clear in the following analysis.

Cognitive uncertainty was mostly introduced in the subsequent development of the EFSF with the abovementioned leeway granted by the FCC becoming ever more difficult to assess due to three major EFSF reforms (*ibid.*): On March 11, 2011²⁰, the heads of state or government of the Euro area agreed to increase the total sum of guarantees to €780 bn (German contribution €211 bn) in order to raise the EFSF's actual lending capacity to €440 bn. Furthermore, they allowed for primary bond market purchases by the EFSF. Another special Euro area-summit on July 21, 2011²¹ expanded the EFSF toolbox to include contingent stand-by credit lines as soon as a country has trouble on the financial markets, finance recapitalizations of financial institutions through loans to governments and interventions in the debt secondary market. Finally, on October 26, 2011²², the Brussels summit agreed to leverage the EFSF via a 'financial trick', thereby increasing its lending capacity to up to €1 trillion (Schwarzer 2011: 13). All these innovations surely challenged the parliamentarians' capacity to assess potential future risks for the national budget and made them aware of the need of adequate participation potentially causing a certain drift from 'New' to 'Old Dualism'. So, what evidence is there on the system, the individual-behavioral and the role-orientation level?

5.1 Evidence I: System-level drifts

When looking at the system's level, i.e. the entire parliament, two developments are quite puzzling from a 'New Dualism'-perspective: Firstly, the way the formal parliamentary rights were expanded, and secondly *de facto* used in the course of the just described EFSF-evolution.

²⁰ Euro Area Summit (1); European Council (1)

²¹ Euro Area Summit (2)

²² Euro Area Summit (3)

5.1.1 Parliamentary rights expansion in the *StabMechG*

Regarding the EFSF, the *Bundestag* has continuously expanded its formal rights. But this alone is not surprising as it has done so before. What is striking, however, is the fact that it went well beyond what the FCC had requested, and the initiative was taken by the governing majority which pushed extremely for more influence in disregard of its government's reluctant position (also for the following Kranen & Löhr 2011: 759-764). In detail: The *StabMechG* old version (o.v.)²³ of May 22, 2010 only contained participation rights in § 1, 4, while the *StabMechG* new version (n.v.)²⁴ of October 9, 2011, which became necessary due to the increase in EFSF guarantees agreed upon in March, extensively refers to participation/information rights in §§ 3-5. The *StabMechG* o.v. only requested the government to 'strive for agreement' with the budget committee before guarantees and loans were actually granted to a country. The budget committee had the right to draft a resolution, but it was by no means binding. For compelling reasons the government could proceed even without *a priori* agreement of the budget committee which was then only briefed *ex-post*. The actual decisions about Ireland (€85 bn loan) and Portugal (€78 bn) slipping under the EFSF were not made by the parliament as a whole.²⁵ On the contrary, *StabMechG* n.v. contains a three-stage parliamentary participation procedure: Whenever the overall budgetary responsibility is touched, i.e. when a new country slips under the EFSF, the plenary as a whole has to agree before the German member of the EFSF directory can acquiesce (§ 3, 1). Whenever the government wants to agree with a change in guidelines of the EFSF or endow it with new instruments, the budget committee has to *a priori* agree (§ 4, 1-2) with the plenary being allowed to accroach these rights by simple majority decision (§ 4, 4). In case of urgency and confidentiality, legally presumed when risk of contagion exists or whenever claimed by the government, a special 9-member-board²⁶ is to make the decision. Extensive and timely information is guaranteed in § 5.

²³ *Bundesgesetzblatt I*, 2010, No. 24: 627

²⁴ *Bundesgesetzblatt I*, 2011, No. 51: 1992

²⁵ Although the EFSM-aid from Commission funds was debated in the plenary due to an Art. 23-resolution inserted by the Greens, pressuring the governing coalition to draft their own (i.e. Ireland: Plenary Protocol 17/78, 8595; *Bundestag* Printed Papers 17/4065, 17/4082).

²⁶ The FCC stopped this by provisional injunction one day after the members had been appointed by the parliament on October 26, 2011 following a complaint by two SPD parliamentarians for violation of Art. 38 GG. In its judgment (February 28, 2012: 2 BvE 8/11), the FCC defined the board as mostly unconstitutional, arguing for confidentiality solely in case of secondary market buybacks to inhibit speculation, thus only granting the board decision-making competence here. A legislative proposal by the governing majority, the SPD and Greens

This evolution is even more striking, when bearing in mind that the FCC ruling had ‘only’ requested an *a priori* participation of the budget committee, not at all referring to the plenary as the necessary decision locus and leaving the government’s ‘escape-clause’ of compelling reasons in case of urgency and confidentiality entirely untouched. What is most surprising from a ‘New Dualism’ logic is the fact that the driving force behind this expansion was the governing coalition even before the FCC judgment. Why would they openly force concessions from their reluctant government here and not hide behind the constitutionally sufficient?

The public discussion about participation rights surrounding the new instruments/size of the EFSF started with four articles in the *Handelsblatt* on August 24, 2011.²⁷ A document had been leaked in which Finance Minister Schäuble informed the heads of the parliamentary party groups that he planned to receive a ‘blank check’ for the future workings of the EFSF. The *Bundestag* should nod the new EFSF through and should not be involved much further (also for following Kranen & Löhr 2011: 760ff). This was severely criticized also by members of the governing coalition, with the parliamentary president naturally assuming the most prominent role, refusing to grant ‘general authorizations’ in his guest-article. As a reaction and in anticipation of the FCC ruling, when the cabinet passed the draft wording²⁸ for the law to change the *StabMechG* on August 31, 2011, it did not include a suggestion for parliamentary participation as this was left to the ‘upcoming legislative process’. On separate conventions, both the FDP (same day)²⁹ and the CDU/CSU parliamentary party group (September 1, 2011)³⁰ opted for a staged procedure. On September 6, 2011 the governing coalition agreed on a motion envisaging the staged process.³¹ Along the way, even more far-reaching concepts such as a larger EU committee including economic, financial, budgetary and EU expert parliamentarians were discussed.³² After the first reading in the plenary on September 7, the budget committee conducted a public expert-hearing on September 19, finally with the exception of *DieLinke* agreeing on

to reformulate the *StabMechG* (*Bundestag* Printed Paper 17/9145) was discussed in the first reading in the plenary on March 29, 2012 (Plenary Protocol 17/172), envisaging the involvement of the plenary even in decisions on guidelines, new instruments and urgent matters, leaving the board only with confidential secondary market buybacks (*Spiegel* Online (1)).

²⁷ *Handelsblatt* (1)-(4)

²⁸ *Bundestag* Printed Paper 17/6916

²⁹ *Spiegel* Online (2)

³⁰ CDU/CSU *Fraktion* (1)

³¹ *Bundestag* Printed Paper 17/6945

³² *Spiegel* Online (3)

the new *StabMechG* including the rights suggested by the governing majority. In the final vote by roll-call on September 29, the law was agreed upon.³³

In sum, this was a major expansion of rights, a “landmark of a revitalization of parliamentary decision-power”³⁴, compared to *StabMechG* o.v.. It goes beyond what the FCC had asked for, not least due to the fact that the EFSF size/instruments are much greater now than they were when the complaints were made to the FCC (Kranen & Löhr 2011: 764). Nonetheless, the *public pressure* exerted by the *governing majority* can be seen as ‘unusual turmoil’ in the functional logic.

5.1.2 The plenary decision on leveraging the EFSF

What is even more surprising from the viewpoint of ‘New Dualism’, however, is the way these newly-earned rights were employed, when put to their first test, namely concerning the approval of leveraging the EFSF: The decision on the EU level proved to be difficult. No agreement was in sight before the EuCo summit on October 23, 2011³⁵, thus a second informal EuCo meeting and Euro area summit were scheduled for October 26³⁶ and a government statement by Chancellor Merkel planned for October 21 was cancelled.³⁷ Originally, the governing majority argued that leveraging the EFSF strictly referred to its guidelines without increasing its overall risk, thus it would have been sufficient for the budget committee to agree. A motion³⁸ tabled by the Green-party on October 20 arguing for a plenary decision was consequently rejected in the plenary a day later.³⁹ This seems very well in line with the logic of ‘New Dualism’: Why would the governing majority risk a decision in the plenary, potentially uncovering dissent? The decision in the budget committee would have been behind closed doors, and the governing majority could have avoided the debate on the ‘Chancellor-majority’. Surprisingly, however, the CDU/CSU-parliamentary group chairman, Kauder, made a u-turn on that matter in press statements on October 24 and a day later⁴⁰. He agreed on a plenary decision, arguing that it was after all not that clear

³³ Plenary Protocol 17/130, 15236C

³⁴ *Spiegel* Online (4)

³⁵ European Council (2)

³⁶ European Council (3); Euro Area Summit (3)

³⁷ *Spiegel* Online (5)

³⁸ *Bundestag* Printed Paper 17/7410

³⁹ Plenary Protocol 17/134, 15891D

⁴⁰ CDU/CSU *Fraktion* (2)-(3)

whether the risks would actually be increased by leveraging the EFSF (cognitive uncertainty!), and that decisions of that scope are in principle better to be held in the plenary. In a motion for resolution⁴¹ subsequently carried by every party except *DieLinke*, the *Bundestag* agreed to the leveraging, spelling out rather tight ‘red lines’ for the Chancellor’s negotiations in Brussels on the same day. The question remains whether this turn by the governing majority, which could have stuck to the guideline argumentation (Kranen & Löhr 2011: 764), was pushed for due to pressure from *within* – a puzzle for ‘New Dualism’ – or whether this was due to the certainty that they had the ‘Chancellor-Majority’ anyways, which would be more in line with the logic of ‘New Dualism’, demonstrating government strength. After all, in both EFSF decisions (September 29 and October 26) the Chancellor had her majority despite deviation and the decisions were largely supported by the Greens and SPD. Moreover, it was not members of the governing majority who filed the FCC complaint against the special board, but two SPD-members. On the other hand, of course a ‘big-bang’ deviation from ‘New Dualism’ was never hypothesized, especially not on the highest, system’s level as this would indicate the ‘most severe’ deviation from this logic.⁴² Can some more indications of a gradual move from ‘New’ to ‘Old Dualism’ be found on the level below, namely the individual-behavioral one?

5.2 Evidence II: Individual-behavioral drifts

For the logic of ‘New Dualism’ deviant parliamentarians as such are not inexplicable. Also in the *Bundestag* it is not an unknown phenomenon, there have always been ‘lateral thinkers’ such as Peter Gauweiler in the Lisbon Treaty discussion, yet deviation should not be large-scale and overtly public so as to ultimately endanger the government’s stability (Schüttemeyer 2007: 32). It is hardly feasible here to try and (comparatively) assess the scope of deviation with regard to the EFSF decisions, let alone define an amount not compatible with ‘New Dualism’ anymore, yet two pieces of evidence on the individual-behavioral level seem to hint at a certain shift towards ‘Old Dualism’: A deviation from the usual party-line approach to media relations and more importantly, a deviation from usual debating practice in the *Bundestag*’s plenary.

⁴¹ *Bundestag* Printed Paper 17/7500; Plenary Protocol 17/135

⁴² Although in the *Bundestag* decision on the second Greek rescue package (February 27, 2012), Mrs. Merkel missed the symbolic ‘Chancellor majority’ (Plenary Protocol 17/160, 19077).

5.2.1 Public deviation by members of the governing majority

Regarding the former, the entire EFSF policy process seemed to be increasingly accompanied by a high number of newspaper/TV interviews by members of the governing majority publicly criticizing their government. What is striking, however, is that while of course criticism on policy-grounds was very present, a high number also continuously, forcefully and publicly reminded their government of the necessity to expand participation and information rights.⁴³ This rather public criticism of the own government also spilled over to other crisis-related policy decisions, with Lammert and the EAC head, Krichbaum, writing letters to the Chancellor that reached the press complaining about information practices concerning the 'Euro-Plus-Pact', an issue the Greens put to the FCC.⁴⁴

5.2.2 The 'Lammert decision' – letting 'deviants' talk in the plenary

More interesting from a 'New Dualism' standpoint is an unprecedented decision, the parliamentary president Lammert made in the plenary debate of September 29, 2011. Usually, the distribution of debating time among the parliamentary party groups is determined in the Council of Elders, more precisely by their *Parlamentarische Geschäftsführer*. The speakers are more or less explicitly obliged to express the party-line (Schüttemeyer 2007: 31-32). For deviant opinions, the *GO-BT* allows two venues (§ 31): *After* the debate, a five-minute oral or written personal statement attached to the protocol can be made. Generally, the latter is used. Now Lammert decided to grant speaking time to the two medially most prominent 'deviants', Frank Schäffler (FDP) and Klaus-Peter Willsch (CDU) *before* the voting. This did not only cause some surprise within the governing majority (Kauder: "If everyone that has a deviant opinion from the party-line now gets the right to talk, the system collapses"⁴⁵), but constitutes a rather significant shift from 'New to 'Old Dualism' caused by the individual action of Lammert who perceived the topic to be of such importance to let different opinions be heard, thereby punctuating the usual debating-cleavage between governing majority and opposition. What is more, this 'innovation' has already become a precedent with Hans-Christian Ströbele (Greens) using it in the plenary

⁴³ *Handelsblatt* (2); *Spiegel* Online (6)

⁴⁴ Parliamentary President (1); *Spiegel* Online (7)

⁴⁵ *Spiegel* Online (8), author's translation

decision on the ISAF mission in Afghanistan on January 26, 2012.⁴⁶ Furthermore, in the aforementioned decision on the second Greek rescue package on February 27, 2012 the two ‘prominent deviants’ were again included in the debate.⁴⁷

5.3 Evidence III: Role-orientation drifts

Despite such evidence, the question remains how the parliamentarians themselves see these developments. Do they perceive them as a sign of shifting functional logics? Additionally, does their self-perception of being a member of the governing majority/opposition gradually change to a more parliamentary attitude?

5.3.1 ‘New Dualism’ and the crisis –‘holes’ in the system

Before going into the in-depth interview-analysis⁴⁸, one interesting observation has to be noted: At the beginning of the conversation, almost all interviewees stressed that adequate participation of the *Bundestag* with regard to the crisis measures taken on the EU level is indeed a hot and extremely pertinent topic “which has occupied us quite a bit in recent months” (I6); some even saying that they oftentimes do not have the time to give interviews, but decided to do so in this case precisely due to the current relevance. They acknowledged that “things are very much in flow and changing” (I4) and they “as members of parliament have to pay special attention here” (I2). Naturally, all interviewees also emphasized the importance of the European debt crisis as a policy issue as such. Hence, they do seem to perceive some kind of effect of the crisis measures on the parliament’s role in EU politics in general. But does this perception refer to a gradual shift in functional logics?

When delineating this further, it becomes clear that all interviewees do essentially agree that the ‘New Dualism’ of the parliamentary system is one of *the* underlying causal logics behind the *Bundestag*’s scrutiny and participation behavior in EU affairs. The cleavage running between internal monitoring scrutiny by the governing majority as “critically accompanying, yet of course also supportive control” (I6) and public political scrutiny by the opposition is acknowledged as describing reality quite well. They do emphasize that this is

⁴⁶ Plenary Protocol 17/155, 18572 B

⁴⁷ Plenary Protocol 17/160, 19099 A, 19101 C

⁴⁸ For the purpose of readability, all long quotes are included in the Annex only. This also serves transparency regarding the interview-material as the full transcription cannot be attached for confidentiality reasons.

the way the system *de facto* works, also issuing their principled approval of this *modus operandi*.⁴⁹ Most respondents do share the feeling that the parliament in general has become more self-confident in the usage of its rights since the Lisbon Treaty, yet resolutions remain indeed largely government supportive and are referred to as *the* prime indicator for the overall application of the ‘New Dualism logic’.⁵⁰ This assessment fits well with the comparatively high number of resolutions (debated in the plenary) for the time-period January 2010-2011 (chapter 2.2: 13), still remaining affirmative.

Only one out of all 17 interviewees criticizes the existing functional logic as “atrophied parliamentary democracy”. This interviewee idealizes the ‘old’ balance of power of Art. 20, 2 GG and deplors that “the governing coalition is usually very reserved and this is disturbing because we are freely elected parliamentarians (...) and they are then only actors for their respective government” (I1).

Moreover, and much in line with the argument of this thesis, the lack of *public* criticism by the governing majority does by no means equal internal top-down imposition: internal monitoring scrutiny by the governing majority is described as a mutual two-way relationship.⁵¹

In sum, the main argument that the formal rights have been continuously expanded, but that the *Bundestag* is reluctant to use them due to the fundamental workings of the parliamentary system is widely and principally shared by the interviewees. Yet, very importantly, several respondents – without having been asked for a potential change in the functional logic in this introductory question – already assert that, while they do agree with this basic notion, they perceive some ‘holes’ in this logic in the last two years since the European debt crisis. They see a more open public criticism, a fiercer drive to increase the parliamentary participation rights by members of the governing majority regarding decisions made during the debt crisis.⁵²

The interviewees perceive two dimensions of a shift due to the debt crisis: One concerns the procedural dimension regarding the *Bundestag*’s participation and information rights, and the other pertains to a content dimension concerning the ‘quality and righteousness’ of the government’s EU politics as such. The crisis measures did apparently

⁴⁹ Quotes (1) ‘New Dualism’ and EU affairs – The functional logic applies

⁵⁰ Quotes (1) ‘New Dualism’ and EU affairs – Government-supportive resolutions

⁵¹ Quotes (1) ‘New Dualism’ and EU affairs – Mutual internal monitoring scrutiny

⁵² Quotes (2) ‘Holes’ in the system

cause some upheaval in the system's logic, but was it – in the view of the interviewees – due to their intergovernmental nature, triggering legal uncertainty, and potential budgetary effects causing cognitive uncertainty as hypothesized as the external shock character in this thesis?

The intergovernmental nature of the EFSF as well as other decisions made on the EU level is indeed perceived by the parliamentarians as a window of opportunity and necessity to expand their rights. They could have of course settled for the *ex-post ratification* of taken decisions only, but there seems to be a unanimous cross-party drive to ensure adequate *ex-ante involvement*. A great many of the interviewees also explicitly refer to the role the *Bundestag* has to play concerning legitimacy as the EP is sidelined. The spirit of *ex-ante* participation analog to Art. 23 GG widely prevails.⁵³

What about the second hypothesized 'shock-notion'? Is it the large sums and the increasing inability of the parliamentarians to assess the risks to their 'crown jewels' that cause cognitive uncertainty and thus a more attentive attitude also in the governing majority? Here, the assessment is more nuanced: All interviewees quasi-naturally agree that the power of the purse is of course the core right of any parliament and that the *Bundestag* will never allow disposing of this.⁵⁴ They tentatively agree with the statement that these are high sums with potentially incalculable risks, but several of them explicitly highlight that this is nothing unusual compared to other guarantees taken, such as the Hermes-guarantees.⁵⁵ While for the politicians it is nothing new, for the voting taxpayers it surely is. They never hear about the 'daily' guarantees authorized, but they do hear and care about the ones related to the debt crisis. Thus, in the view of the interviewees, the driving force is actually the voter, a very interesting finding that will receive more attention in section 5.3.2. As we have seen, the interviewees do perceive the debt crisis to be an external stimulus, even if the notion of cognitive uncertainty of the parliamentarian seems to rather be a cognitive uncertainty of the voter/taxpayer. But what about the four events this thesis portrays as pieces of evidence for a gradual shift in functional logics? Do the interviewees see them as signs of drifts in logics and, if so, how do they interpret these developments?

⁵³ Quotes (3) 'Shock effect' of intergovernmental measures (legal uncertainty)

⁵⁴ Quotes (4) 'Shock effect' of budgetary risk (cognitive uncertainty) – Encroachment on 'crown jewels'

⁵⁵ Quotes (4) 'Shock effect' of budgetary risk (cognitive uncertainty) – Comparative extent of guarantees

On the system-level, the first evidence was the fact that – clearly driven by the governing majority – the *ex-ante* participation rights with regard to the EFSF have continuously been expanded going beyond what the FCC has minimally required. The interviewees do univocally approve of the fact that the rights have been expanded, but there is a stark difference in interpretation between the governing majority and the opposition: The former assures that they did this because they felt they had to wrench these rights from their government in these existential issues, thus they do portray themselves as acting as parliamentarians in this case more than members of the governing majority⁵⁶. The opposition on the other hand is very skeptical with regard to the governing majority’s real intentions and ulterior motives.⁵⁷ Some do believe that also in the governing majority’s rows, the drive for more rights was motivated by their being more “independent parliamentarian(s)” (I9), but a lot of the opposition members also highlight the fact that the 9-member-board could potentially be a hidden way to control the parliament. Here, the actors on both sides do consequently not mentally break out of the ‘New Dualism’-cleavage structure.

In a nutshell, the parliamentarians agree that the right expansion was a good thing and that the coalition majority was indeed a driving force here, but differ in their assessment of the latter’s intentions. The opposition is critical, whereas the governing majority stresses its action as truly parliamentarian. Thus, while the governing majority indeed was more actively pushing for more rights than they could have, which is a sign of a gradual shift in functional logics on the system’s level, the role-orientation seems not to have changed so rapidly. Admittedly, the members of the governing majority do portray themselves as parliamentarians, but the opposition does not grant this status to them.

The second piece of systemic evidence pertains to the governing majority’s decision to let the entire plenary instead of the budget committee approve the EFSF leverage. This is interpreted as a sign of gradual drift in the functional logics as from a purely legal perspective, the latter’s consent would have sufficed and too much public deviation could have been avoided. Instead, so it was argued above, also the governing majority has realized that they as parliamentarians should put the decision to the plenary. But, in the view of the

⁵⁶ Quotes (5) Evidence I: System-level drifts: Parliamentary rights expansion in the *StabMechG* – Governing majority: self-portrayal as parliamentarians

⁵⁷ Quotes (5) Evidence I: System-level drifts: Parliamentary rights expansion in the *StabMechG* – Opposition: Skeptical of governing majority’s ‘good intentions’

interviewees, was there really an internal drive to lift the decision to the plenary? Or was it simply external pressure?

While the exact mix is disputed, most respondents refer to a *mélange* of internal pressure from within by some willing members of the governing majority, and external pressure from the opposition, the media and also the public/voters.⁵⁸ What is again striking here is the cross-cleavage reference to the issue of legitimacy in the eye of an increasingly demanding voter as the main reason behind lifting the leverage decision to the plenary which will be dealt with in the next section. What becomes again apparent is that the interviewees frame the plenary decision on leveraging the EFSF along existing cleavage lines: The opposition tends to stress its pressure as decisive, the governing majority its own 'learning-process'.

Now turning to the individual-behavioral level, namely the Lammert decision of September 29: All interviewees stress the 'unusualness' of the decision, they explicitly see it as "something new" (I4) and "at parliamentary prime-time of a government policy statement, too" (I8) that "has never happened before in the way the parliament normally works" (I9). It is clearly a precedent: "This really did change something it seems, because now Ströbele was also allowed to talk in the case of the Afghanistan mission" (I10). What is interesting, however, is that only a minority⁵⁹ sees it as an entirely positive development, most are afraid of the incalculable consequences.⁶⁰ While they thus do interpret Lammert's decision as a move from 'New' to 'Old Dualism', and do again praise it in terms of increasing legitimacy as different opinions on such an important issue have to be heard as the voters also hold different opinions, they are worried about its long-term implications for parliamentary practice, clearly referring to the logic of 'New Dualism' and perceiving the existing instruments to accommodate 'deviant opinions' as largely sufficient. Moreover, members of both camps are equally concerned about the question who determines what an important issue is and who will be granted this right under what conditions in the future. Hence, the interviewees see it as the most visible shift in logics, but when framing this, again stick to the rationale of 'New Dualism'. This mental adherence to the conventional cleavage

⁵⁸ Quotes (6) Evidence I: System-level drifts: The plenary decision on leveraging the EFSF

⁵⁹ Quotes (7) Evidence II: Individual-behavioral drifts: The 'Lammert decision' – letting 'deviants' talk in the plenary – Entirely positive assessment

⁶⁰ Quotes (7) Evidence II: Individual-behavioral drifts: The 'Lammert decision'– letting 'deviants' talk in the plenary – More negative assessment

is further signified by a draft recommendation of the governing majority and the SPD of March 30, 2012 to curb Lammert's freedom via a change in the *GO-BT*, only allowing him to grant speaking time to parliamentarians 'in agreement with the respective parliamentary party group'.⁶¹

Finally, what about the rather explicit public deviation by some members of the governing majority? Here, the aforementioned distinction between public criticism concerning the practice of parliamentary participation and the actual policy content becomes decisive. In the framework of this thesis, both 'kinds of deviation' are conceptualized as a sign of drift in functional logic, as long as they are public. The interviewees see the increasingly strong public deviation by some members of the governing majority on procedural grounds concerning adequate parliamentary participation as a shift, not however the deviation regarding the righteousness of the policy content. The latter is instead predominantly viewed as a normalization of EU politics compared to domestic politics with interviewees stressing that public deviation by members of the governing majority equally happened with regard to important domestic decisions, like the Agenda 2010.⁶²

In essence, two main conclusions can be drawn: Firstly, that the Lammert decision is most clearly seen by the interviewees as a sign of drift from the logic of 'New' to 'Old Dualism', yet predominantly framed in a more negative fashion. The governing majority pushing for a rights expansion and their actual usage in the plenary decision on leveraging the EFSF as well as the publicly voiced demand for adequate participation and information practices vis-à-vis the own government are already assessed more ambiguously in the sense that the opposition questions the 'true change of mind' towards a 'more parliamentarian' orientation the governing majority precisely claims to have undergone in the course of the debt crisis. Thus, secondly, these assessments are clear signs of the parliamentarians' role-orientations still very much functioning according to the logic of 'New Dualism'. The direct question regarding the role-orientation does confirm this finding: The two categories are of course not mutually exclusive. While the interviewees naturally stress that they are not mere 'party loyalists', they do see their belonging to either the governing majority or the opposition as decisive which does not, however, preclude them from fighting for the

⁶¹ *Süddeutsche.de* (1)

⁶² Quotes (8) Evidence II: Individual-behavioral drifts: Public deviation by members of the governing majority

institutional self-interest of the *Bundestag* or for their own deviating opinion on policy grounds, either.⁶³

During the analysis the twin-notion of legitimacy and an increasingly demanding voter has repeatedly been alluded to as an underlying factor pertaining to the debt crisis measures. In other words, the two characteristics of intergovernmentalism and budgetary implications do not by themselves seem to constitute the ‘shock-character’, but are instead coupled with what can be called a growing politicization (and in that sense normalization) of the topic. This was not primarily hypothesized in the theoretical framework of this thesis, but can be induced from the interviews, thus begs some preliminary delineation, although further research would be required. Yet, this is precisely the virtue of semi-structured expert interviews as the researcher can always uncover other factors not previously thought of.

5.3.2 ‘Shock-character’ of the debt crisis: The voter driving politicization

As aforementioned, the interviewees themselves do not solely see the high sums as such or the possible encroachment on their budgetary right alone as the ‘external shock’, but tie it to a kind of ‘internal driving force’: the voter, more precisely the taxpayer for whom the European debt crisis is an extremely important issue that is equally picked up by the media: “Since Greece the debt crisis has been *the* pertinent topic in the media and the public at large. This is of course existential for the people” (I13) “as it has implications for generations to come” (I17). The parliamentarians feel increasingly pressured by their electorate, have to be able to answer questions, explain themselves and justify their actions vis-à-vis their information-seeking, oftentimes also critical constituencies, thus have a huge incentive to be involved and know exactly what is going on.⁶⁴

Many interviewees also highlight another factor allegedly driving most parliamentarians’ increased attentiveness and desire for close involvement: The immediate measures taken to tackle the debt crisis as well as the long-term preventive policies cut through a variety of policy areas which additionally triggers more parliamentarians wanting to have a say.⁶⁵

⁶³ Quotes (9) Role orientation: member of the governing majority/opposition or parliamentarian

⁶⁴ Quotes (10) The debt crisis and electoral salience

⁶⁵ Quotes (11) The debt crisis and its cross-cutting implications

All agree that this particular *mélange* led to a strong drive by the parliamentarians to adequately ensure legitimacy of the decisions taken, be it through a priori involvement in the decision-shaping, visibility of decision-taking for the public (EFSF leverage decision in the plenary!) or explanations to the citizens on the ground. Hence, in addition to their intergovernmental nature and implications for national budgets, the measures surrounding the debt crisis are characterized by high voter- and media-salience as well as relevance to a broader range of parliamentarians as experts in their respective policy fields. This in turn leads to a fiercer discussion of policy alternatives, including public deviation by members of the governing majority as a ‘natural reaction’ bearing in mind the importance of the issue: “Political conflicts over European topics increase quantitatively as well as with regard to their intensity and publicity if institutional changes (maybe even below large-scale treaty change, L.K.) in the integration process lead to a relativization of national decision-making bodies’ autonomy” (Korte & Maurer 2001: 211).

Some interviewees even see this as a longer-term, albeit probably slow trend of European politics at large having gradually moved away from classical foreign policy towards domestic politics regarding issue salience, intensity of debate and involvement of parliamentarians, the media and citizens alike.⁶⁶ At the same time, most interviewees subscribe to two crucial differences between European (debt crisis) and ‘pure domestic politics’: Firstly, the general pro-European consensus in the *Bundestag* is believed to eventually lead to most of the recent decisions being also carried by the opposition (excluding *DieLinke*), despite more open and public debate.⁶⁷ Secondly, the aforementioned efficiency-legitimacy-dilemma pertaining to the government’s action on the European level is believed to further ‘tame’ the degree of politicization at least when it comes to the final decision.⁶⁸

So, how can one contextualize these additional insights? Here, only a snapshot of the wider academic debate about the degree and desirability of politicization of European politics can be provided (broader discussion of politicization of supranational/EU politics: Marks & Hooghe 2008; Zürn et al. 2007). Very broadly defined, politicization refers to the salience and intensity of political debate about EU matters on the national level amongst politicians, the media and the population (Wendler 2011: 307). As briefly touched upon in

⁶⁶ Quotes (12) Gradual politicization of European politics

⁶⁷ Quotes (13) Pro-European consensus and European politics as domestic politics

⁶⁸ Quotes (14) Efficiency–legitimacy dilemma and European politics as domestic politics

section 1.2 when discussing possible reasons for the *Bundestag's* reluctance to use its formal rights, there is a widely shared agreement among scholars that EU issues as such still do not possess high salience, neither for the German voter nor in the national media (de Vries 2007; Wendler 2011). In many instances, their oftentimes technical nature precludes heated political debates. Additionally, while there exists a wider pro-European consensus in the German parliament still today (excluding *DieLinke*), surveys have repeatedly shown that the German public's attitude towards the EU is at best "more permissive, acceptive and benevolent, than demanding, challenging, pressing or pushing" (Panebianco 2004: 25). The interesting question for future research then becomes whether the debt crisis is just another of the 'usual instances' of EU issue salience comparable to major integration steps, or whether it can serve as a catalyst for more politicization of supranational EU topics at large.

Having to leave this unanswered for now, regarding this thesis, it can be said that the 'shock-character' of the crisis measures is not only confined to their intergovernmental nature and budgetary implications, but seems to also pertain to the voter and the media, i.e. the public at large additionally triggering a potential gradual drift from 'New' to 'Old Dualism'. Recalling the lack of salience as a major impediment for parliamentarians' politicization of EU topics from section 1.2, this could well be the underlying driving force coupled with the theorized legal and cognitive uncertainties.

Conclusion

This thesis set out to answer the question whether the measures taken to combat the European debt crisis, more precisely their intergovernmental nature and their possible implications for the power of the purse, are leading to a gradual shift in the parliamentary logic of the German *Bundestag* from 'New' to 'Old Dualism'. Potential evidence of drifts on the system, the individual-behavioral as well as the role-orientation level was assessed ,yielding two main results: Firstly, as expected, a full-blown shift cannot be observed, but the evidence does suggest some 'holes' in the system, especially signified by the 'Lammert decision' of September 29, 2011. The envisaged expansion of parliamentary rights regarding the EFSF of March 27, 2012, which granted even more decision-making competence to the plenary is the latest sign of this trend. At the same time, the interviewees are still very much caught up in the usual cleavage mindset when framing the evidence, meaning that a role-

orientation shift cannot be detected, (yet). Secondly, in addition to the *external* 'shock-character' of the crisis, the interviewees do identify another *internal* driver, namely the voter pushing for a higher politicization of the topic, moving it closer to the logic of 'normal domestic politics'. Whether these identified trends pertain to a longer-term development in the way European politics are dealt with in the German *Bundestag* and the German public at large would require further research in the future, assessing the longevity of these changes. Are they temporary or substantial? Will there be spill-overs to other (maybe even more technical, thus 'real') EU issues or are they strictly confined to the debt crisis as a virulent topic?

Despite their fluidity, the findings of certain 'holes' in the functional logic of the *Bundestag* and a potential increase in politicization (as perceived by the interviewees) due to the crisis-measures, beg for some final thoughts on their implications. With regard to the democratic deficit of the EU both the shifts in the functional logic and a related politicization may be desirable developments: Should EU issues in general become more salient topics for the voter and induce more parliamentarians even from the governing majority to push for adequate *a priori* involvement, maybe even increasingly using formal rights such as resolutions in a critical manner and generally making all these issues more public, could enhance the intergovernmental chain of legitimacy with a potentially positive (long-term) effect on the general public's attitude towards European integration at large.

On the other hand, too much turmoil in the system's functional logic might impede the working of the *Bundestag* as a parliament and have detrimental effects on the government's capacity to act on the European level. Moreover, as much as a politicization of European issues such as the debt crisis is desirable, as long as it stays national, precisely strengthening national sentiments instead of European ones, the long term positive effect remains at least doubtful. It is questionable whether national political salience and the legitimization before the *national German public* is in fact desirable for the wider goal of a *European public sphere* as a common discursive space (Gerhards 2000).

And where does all of this leave the German *Bundestag* in the EU? The quote by parliamentary president Lammert in the beginning of this thesis suggests the classical understanding of the division of labor between parliaments and governments as the benchmark for EU affairs: While governments are the ones negotiating on the EU level, it is up to the national parliaments to ultimately make the final decisions. But this decision-

competence increasingly encompasses more than mere ratification of negotiation outcomes. While the parliamentarians gradually realize this, it will surely take some more learning-time for them to fully live up to their alleged 'responsibility for integration' as "(p)arlaments are tradition-steeped institutions; getting them to change is not simply a matter of grafting new practices onto the old, but of rethinking their place" (Schick 2002: 17).

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ANNEX
TABLES AND CHARTS

Legislative period	EU items	Recommendation for a resolution (%)
12 th LP (1990 - 1994)	2070	242 (12%)
13 th LP (1994 – 1998)	2952	174 (6%)
14 th LP (1998 – 2002)	3137	117 (4%)
15 th LP (2002 – 2005)	2491	63 (2.5%)
16 th LP (2005 – 2009)	3896	62 (1.5%)

Table 1: EU items and recommendations for resolution

Source: http://www.bundestag.de/dokumente/datenhandbuch/10/10_08/10_08_03.html

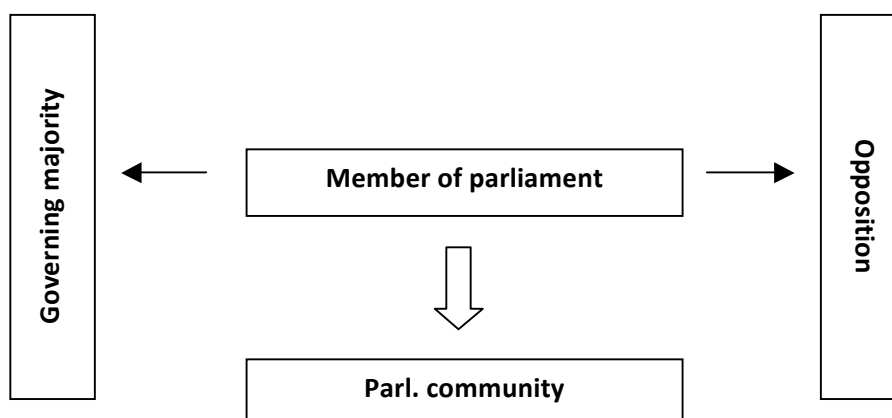


Chart 1: Role-orientations of parliamentarians (author's own based on Schwarzmeier 2001: 79; Schulz 2011: 119-120)

Measures tackling the European debt crisis (IV) → Functional logic of the *Bundestag*



H1: The crisis-measures lead to a gradual shift from 'New' to 'Old Dualism' in the *Bundestag*



Operationalization and Methodology:

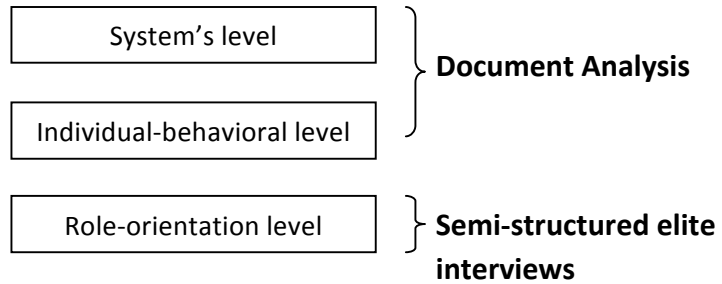


Chart 2: Visualization of the main argument

	Parliamentarians	Staff	Sum
CDU/CSU	2	2	4
FDP	1	2	3
SPD	4	-	4
<i>Bündnis90/Grüne</i>	1	-	1
<i>DieLinke</i>	2	-	2
<i>Bundestag Administration</i>	-	1	1
Federal Chancellery/Finance Ministry	-	2	2
Sum	10	7	17

Table 2: Interviewees

Questionnaire

Brief description of research interest

My Master thesis examines the role of the German *Bundestag* in European politics with regard to its participation rights. I am very much interested in the possible effects of the intergovernmental measures tackling the European debt crisis, especially the EFSF, on the parliamentary work(ings).

1. The *Bundestag* has continuously expanded its formal participation rights in EU matters, yet the parliament is often accused of not using them with enough self-confidence. This is said to be due to the fact that the first and foremost task of the governing majority is to carry the government and not to criticize it openly. Control shifts to the internal realm, while the opposition criticizes publicly. **How do you experience that in your daily work?**

2. Also one often hears that the individual parliamentarian is caught in a conflict of goals between the government's capacity to act on the European level on the one hand and the desirably strong participation of the *Bundestag* on the other. **Is this correct and if yes, what does this mean in practice?**

3. It is said that a pro-European consensus prevails in the *Bundestag*, the parliamentarians are allegedly Europhile and will therefore not insist too much on their formal rights. **Is this correct and if yes, what does that mean in practice?**

4. In tackling the European debt crisis, predominantly intergovernmental agreements were found on the European level. **What does this mean for the participation rights of the German *Bundestag*?**

5. One increasingly gets the impression that it becomes ever more unclear how the budgetary right as the parliamentary crown jewels is potentially encroached upon and risked by the measures taken. **What does this mean for the participation rights of the German *Bundestag*?**

6. An example: The *StabMechG* concerning the EFSF. Here, the *Bundestag* strengthened its rights beyond what the FCC judgment had required. **How do you assess this? Why has this happened? Is this good or bad?**

7. In the 2nd/3rd reading of the *StabMechG* on September 29, 2011 parliamentary president Lammert granted speaking time in the plenary to the members of parliament, Klaus-Peter Willsch (CDU) and Frank Schäffler (FDP). **How do you assess this?**

8. There was a prominent discussion about 'the deviants' in the media and individual parliamentarians gave various interviews complaining about the lack of consideration of parliamentary rights. **How do you assess this?**

9. The decision to leverage the EFSF was taken in the plenary on October 26, 2011, although originally only the budget committee was supposed to decide. **Why did the governing majority reconsider here?**

10. **If I directly ask you for your role orientation, do you see yourself rather as a member of the governing majority/opposition or a parliamentarian and why?**

Anonymized interviewees: Abbreviation and belonging/position

Interviewee 1 **(I1)**: member of the opposition

Interviewee 2 **(I2)**: member of the governing majority

Interviewee 3 **(I3)**: member of the opposition

Interviewee 4 **(I4)**: member of the opposition

Interviewee 5 **(I5)**: staff of the governing majority

Interviewee 6 **(I6)**: staff of the governing majority

Interviewee 7 **(I7)**: member of the *Bundestag*-administration

Interviewee 8 **(I8)**: member of the executive

Interviewee 9 **(I9)**: member of the opposition

Interviewee 10 **(I10)**: member of the governing majority

Interviewee 11 **(I11)**: member of the opposition

Interviewee 12 **(I12)**: member of the opposition

Interviewee 13 **(I13)**: member of the opposition

Interviewee 14 **(I14)**: staff of the governing majority

Interviewee 15 **(I15)**: member of the governing majority

Interviewee 16 **(I16)**: member of the executive

Interviewee 17 **(I17)**: staff of the governing majority

Quotes

(1) 'New Dualism' and EU affairs

The functional logic applies

"I voted for the Chancellor and thus for this government. I want this government to remain in power and be re-elected and nonetheless I am a parliamentarian and it is important for me to know what the government does, to have influence and consequently to control adequately. This holds no less true for EU matters. There are thus different roles depending on whether one is in the governing coalition or in the opposition, and they are essential for the parliamentary functioning: I am not the one, who is criticizing my government openly. If I feel the government makes a mistake, I try to internally make sure that it stops doing so, but I don't trumpet it into *BILD*. But it is of course important that someone criticizes publicly and this is essentially the opposition's task. The opposition looks for the fly in the ointment or real mistakes in their view - that is their job. The coalition on the other side tries to find the right way internally. And this role-play is good, I can do both" (I2).

"This is generally true, the core task of the governing majority is to support its government and ensure a continuous parliamentary majority, also in EU politics" (I3).

"The opposition is the one actually publicly controlling the government and putting it on the leash, we can of course be more critical and brisk here as we have much less to lose" (I9).

"It is of course true not only for EU matters that there is not *the* control of the German *Bundestag* vis-à-vis the government. Voting against the party-line in parliament is of course the sharpest sword; everyone naturally tries to avoid such an escalation, of course. The opposition on the contrary *has* to publicly broach issues and create pressure on the government and its majority" (I12).

"What we have indeed continuously done in the last 20 years, but very intensively so in the last years, is strengthening the formal parliamentary rights in general. (...) Formal rights are important, I definitely do have this legalist view, but the true power relationship between government and *Bundestag* is not only determined by law, but has much to do with the way influence is exerted, critical remarks, and critical monitoring, especially in the case of the governing majority. (...) The fact that parliamentary decisions are brought about by the governing majority leads to the constellation that you have described" (I6).

Government-supportive resolutions

"The functional logic generally applies, but with regard to the self-interest and independence of the individual constitutional organs in my view there are however shifts not least due to the changes since the Lisbon Treaty and the formal strengthening of the parliament. But this does not automatically mean that the government is weakened by this. (...) And with regard to resolutions, it would indeed be very surprising, if there was striking dissonance between the government and the governing majority, this will not happen precisely because such processes converge already in the run-up to the decision. Members of the government join the working groups, opinions and possible solutions are debated, exchanged and coordinated a priori, so there is no surprise-effect - that is something we can rely on in a

parliamentary system (...). It (a resolution) is something that can support, yet critically accompanies the negotiations in Brussels, but of course not hostilely or adversatively. (...) Also with these resolutions, the basic principle of the parliamentary system is preserved, i.e. that there is a governing majority and the axiom of the parliamentary system is that the government in its mere existence depends on the trust by its majority and this does of course not only apply in case of votes of confidence and no-confidence, but equally applies in daily politics and this is why you can say that in European matters the functional logic of the system is fully preserved” (I5).

“We also realized that our resolutions can be used in a positive way as well. Sometimes the government says ‘We are in a difficult situation in Brussels, can you do a resolution?’ And then the minister in Brussels can say ‘My parliament is breathing down my neck, I cannot move’. This is of course a credible threat and this is purposefully used so they can poker in Brussels” (I2).

“We do mutually define red-lines and sometimes they (the government) also say, it would be nice, if you could tell us this or that as this will bolster our negotiation position in Brussels” (I14).

“Of course it is the case that the government organizes resolutions in order to generate support to enhance its negotiation power in Brussels or to lead a public debate into its direction” (I4).

Mutual internal monitoring scrutiny

“Of course we have a parliamentary system in Germany and the government is dependent on and controlled by the parliamentary majority. This is of course also true for European matters (...). If you look at the logic of the parliamentary system and of this government, then you will realize that there is no decision that this government takes, and really no decision which bypasses the governing majority and is not accompanied adequately. It is a very reciprocal process and you cannot at all say that criticism doesn’t come from the own majority” (I5).

“It is a very reciprocal process between governing majority and government; we consult each other internally because we want to prevent disagreement in public afterwards. Mrs. Merkel joins the parliamentary party group meetings to sense the general mood, but also explains which things she may not be able to adhere to in Brussels. So, it is an intense exchange (...). The impression of top-down governance is not at all true because the exchange happens in the run-up and is supposed to avoid public dissent” (I14).

(2) ‘Holes’ in the system

“Of course it is true that the governing majority is supposed to publicly carry and support its government, also in EU politics, what one can increasingly observe of late, however, say the last year or so, is that nonetheless members of the governing majority do criticize different practices of their government openly in the press when it comes to EU matters. The head of the EAC and the parliamentary president do so, they both also wrote letters to the Chancellor. (...) With regard to participation and information rights, the governing coalition is

quite an active driver. They could easily block that and say that they do not want this, then the opposition would not stand a chance against the majority, but they are very actively pushing indeed” (I8).

“We are all together entering uncharted territory. (...) We are increasingly succeeding in bringing about a certain sensitivity within the governing coalition that we as parliamentarians have to actively seize our rights in EU politics in general and the current situation in particular. Of course, especially for the governing coalition this is oftentimes a delicate balancing act in my perception, they want to support the government on the one hand, but increasingly less so at all costs. The governing coalition members become increasingly confident and negotiate with their government, when it comes to participation rights for instance. (...) And in the end, the self-confident parliamentarian has to be the ultimate goal” (I9).

“One needs a lot of courage indeed and can get into trouble, when wanting to start a ‘revolution’, especially as the media will readily and gratefully take this up, claiming the government is losing its majority and that new elections are in sight. But we try to do it, step by step” (I2).

“Generally this is how it works, but I think, there are a lot of things changing right now. There have been resolutions were the government was first hindered to take necessary steps, even though later, the governing majority agreed to that anyways. They also pressure their government for more information (...) and you can see that a lot is changing, not least due to the fact that we are talking about intergovernmental measures. (...) Especially with regard to the *StabMechG*, a lot has changed: the a priori involvement and information on the Fiscal Compact will also be provided analogically to Art. 23 GG. This shows that the positions are softening, but it is hard to assess at this point” (I4).

“Some members of the governing majority only clench their fists in their pockets and ultimately defend their government’s policies, while others voice their concerns openly. It needs courage to do that openly. The one who does that most decisively is the parliament’s president Lammert, he oftentimes pours some cold water on the matter, ensuring that the parliament can fulfill its tasks and that its rights are guarded. That sometimes does not increase his popularity with his party” (I13).

“But it also has to be said that especially recently, the government was not always entirely happy with resolutions we made. We did indeed draw some red-lines, even though the basic direction of the policies was agreed upon of course. If you imagine the member of the governing coalition as also being a parliamentarian representing the people, then these two roles are like two intersecting circles. Sometimes they have more of an overlap, sometimes less. And with regard to the debt crisis it was special: It was in the end not only a question of how to save the Euro, but also of how to adequately engage the parliament. And while in the former case for most members of the governing coalition, these two circles were rather congruent, when it came to the participation of the *Bundestag*, they drifted further apart.” (I17).

(3) ‘Shock effect’ of intergovernmental measures (legal uncertainty)

“Of course it is naturally the executive’s self-interest to keep the parliament out and if we only ratify intergovernmental agreements, we are successfully kept out – but here the *Bundestag* is putting up a fight now” (I17).

“In the intergovernmental method, the EP is sidelined and the *Bundestag* really has to be involved a priori, pro-actively and formatively” (I4).

“The things we are dealing with are principally EU matters in my view. Thus, the information provision should be analog to Art. 23. The FCC will decide this, but we have already reached that the information provision regarding the Fiscal Compact will be analog to Art. 23. And it is simply smarter, if the *Bundestag* is included early on. Also an intergovernmental agreement has to be ratified, so it is advisable to inform the parliament beforehand” (I6).

“(A)s you don’t have the EP on board, when it comes to intergovernmental agreements, the national parliaments have to be the ones ratifying, accompanying and democratically legitimizing the negotiations. (...) The parliaments then also exercise stronger control, if they are included a priori that is” (I5).

“When you look at the EFSF, we did a lot. When you look at Greece, we did not include much participation. Schäuble managed to keep the parliament out (...). And then came the EFSF and there was more resistance already. The government thought a one-time ratification was sufficient, but we slowly began to realize ‘Wait a minute, it is not that easy after all’. (...) After all it is taxpayers’ money that we might potentially lose” (I2).

“They constitute intergovernmental measures, but the participation rights concerning the EFSF are quite substantial now. (...) And the government also realized that we cannot go back and this is the strong self-image of the *Bundestag* to be involved a priori in what you can call ‘felt EU matters’ (I8).

“The government finds the parliamentary participation annoying, but in these cases we have to counter this” (I10).

“By changing the *StabMechG*, we changed it from being a pure governmental affair to a parliamentary affair, we are on board” (I14).

“The danger of too much executive and too little parliamentary participation is evident: At least, we ensured that the rights of the *Bundestag* are better than those of the EP (...). There should be a consonance of executive and parliamentary action” (I11).

“I think that there are a couple of people also in the governing majority who believe that especially now we cannot treat this as a purely executive matter” (I12).

“We did increase our rights continuously with regard to the EFSF, especially here we said this cannot be a purely executive action” (I15).

(4) ‘Shock effect’ of budgetary risk (cognitive uncertainty):

Encroachment on ‘crown jewels’

“This is a core question. If you ask yourself, what the fundamental task of the parliament is, then one has to say everything depends on the money. And in the end the decision, a decision concerning the taxpayers’ money is – all power comes from the people – in the hands of the institution representing the people” (I1).

“Of course the parliament wakes up now, when it comes to this sensitive topic. The *Bundestag* is the sovereign after all; these things cannot be done by the government alone. And this also means transparency, it has to be debated in the plenary, we as politicians elected for a limited time, we have to publicly air our reasoning. This has been a continuous learning process since Lisbon. And this is at minimum true for such authorizations of guarantees. (...) In the end it is the taxpayer’s money that we are losing” (I2).

“Uncertainties and risks are natural, when it comes to these decisions” (I3).

“The right to collect taxes and the parliament’s right to decide how they are used is what characterizes modern democracies. (...) If the budgetary right, the fiscal right with regard to budgetary autonomy migrates, then statehood migrates, and this causes cold sweat on peoples’ foreheads. (...) So as the FCC also said, the sum as such is not decisive, but there is a line where budgetary autonomy is affected too much. Below this, the *Bundestag* has to decide. And of course here the *Bundestag* will want to be stronger than in any other area simply because it is the power of the purse, its crown jewels, in the end this is how parliamentarianism has developed in the first place, concerning its self-image as a constitutional organ, it cannot easily dispose of. (...) I mean this is where it really gets to the nitty-gritty, budgetary power, parliamentary participation, if the *Bundestag* is not self-confident here, where else?” (I5).

“And of course the budgetary right is the crown jewels of the parliament and this was certainly a catalyst now to deal with these questions (debt crisis) in detail, also concerning the consequences and implications. (...)” (I6).

“The budgetary right is the core right, it is the right around which entire revolutions were sparked 200 years ago. (...) And if I look at the polls, the parliamentarian has to explain the people where the boundary is that I do not want to cross as a parliamentarian up for re-election” (I7).

“Of course there was a certain fear of the parliamentarians concerning the implications of the EFSF for the budget as guarantees can also be lost. (...) The sums are big and they of course wanted to be incorporated here” (I8).

“It is clear that questions concerning the budget are always of particular sensitivity for the *Bundestag* (...). In the end, the sums exceed the federal budget by far. And in that regard it is an issue where parliamentarians do in my view also have to be more sensitive” (I12).

“When you look at parliamentarianism historically, it has formed precisely for the reason to decide upon the budget and if there is imminent danger that the budgetary right is encroached upon, then this is clearly a question of parliamentarianism and this awareness

has indeed increased a bit recently that some politicians have become more sensitive, that one has to pay attention here and there is again a clear position by Norbert Lammert” (I13).

Comparative extent of guarantees

“But the sum is not really the problem, if you look at Hermes-guarantees for instance. The voters, for them it is huge of course, but overall it is not something that fundamentally tips the scales” (I5).

“Of course the debate on the immense sums is there and especially for the voter the sums are unimaginable, but if one is honest, the *Bundestag* is flooded by so many authorizations for guarantees, just look at the Hermes-guarantees. (...) And if you look at the financial risks of reunification, these were also not calculable. (...) The sums are immense, yes, but it is not sums that are mobilized for the first time in world history. Of course it is true that now that the budgetary right is somehow touched, we do make sure we are involved, but that does not mean we are all too stupid to decide” (I4).

“What most people do not know is that we do this (authorization of guarantees) also in other areas, in the budgetary law we authorize up to 400 bn of guarantees in case of Hermes-guarantees or foreign guarantees. This happens in the budget committee and the other politicians don’t usually get to see this” (I14).

(5) Evidence I: System-level drifts: Parliamentary rights expansion in the *StabMechG*

Governing majority: self-portrayal as parliamentarians

“This (expansion of parliamentary rights in the *StabMechG*) is good and it is precisely a consequence of the growing self-confidence of the *Bundestag* especially in budgetary-relevant European matters. And this is why we said, the FCC gives an impulse and we say that this is a procedural question and we are the highest constitutional organ, it is us, not the FCC who decides which rights we need, we are autonomous. We deliberately went beyond the constitutional requirements because we want to close the legitimacy gaps, the *Bundestag* does want to play an active role, it does not want to hide, it wants to assume its responsibility for integration. (...) Thus we said, no, we are self-confident enough, and this was clearly a request by the governing majority (...), we should go beyond. (...) I mean, just hypothetically imagine a big country would need to slip under the rescue umbrella, literally no one would seriously hit upon the idea to only let the budget committee decide, unimaginable! (...) After all, the *Bundestag* did not (again) want the FCC to tell it how to assume its democratic responsibility for legitimacy, I mean, these are the fundamental issues, the budget, if the *Bundestag* is not confident here, where else?” (I5).

“Strong parliamentary participation rights are in general always to be appreciated. (...) The *Bundestag* realized it has to go beyond what back then was the basis for the FCC’s decision. That we need a more detailed structure. (...) Here it is again essential that the *Bundestag* is already participating in the genesis of decisions and this is why I think the *StabMechG* together with the participation rights since Lisbon is yet another milestone for parliamentary participation which was very important and formative for future decisions. (...) This is the

benchmark behind which no one in Germany can revert now. This is not imaginable anymore I think” (I6).

“When it was clear that the EFSF was to be expanded and to get new tools, we said, and the government was not so happy about it at first, then we also have to change the *StabMechG* and include more participation. We, the governing majority then tabled a controversial motion and this was even before the FCC ruling. (...) And once the three-layer concept was out, no one could go back and then we did it. Definitely more than what the FCC had asked for on September 7. (...) It is apparent, we did more than they demanded! And then I really don’t understand how people can still say we have to carry the *Bundestag* to hunting” (I2).

“We agreed that we wanted to close the net so that there is no hole and not only ex-post rubber-stamping. So there is clearly a genesis from the Greece package to now. The impulse for this came from the governing coalition, the government gave a legislative draft and there were these three dots for participation, we did this then” (I14).

Opposition: Skeptical of governing majority’s ‘good intentions’

“It is portrayed as if the parliament for once had pulled itself together and said ‘wait a minute, this is not how it works’. And don’t get me wrong, it is good that we have these rights now, but I don’t think it is true that the governing coalition has bethought itself over night and thus introduced especially strong rights. (...) And the 9-member-board could actually lead to a weakening instead of a strengthening of parliament” (I1).

“(W)hen you think about it, the majority in this board (5 members of the governing coalition) will not decide differently from their government anyways and this is a dangerous mixing of executive and legislative as the executive can then always say, it was not us who decided this, it was the parliament, and who controls the decisions of this board after all? If the executive was the one deciding alone in cases of urgency and confidentiality as the FCC had envisaged, the *Bundestag* could install a committee of inquiry or the government can be voted out of office. But now the government can simply say it were the parliamentarians who decided and the public responsibility is blurred” (I4).

“They (governing coalition) did increase the rights, but the question is whether it is really such a big leap in parliamentary participation. The 9-member-board may prove not to” (I12).

(6) Evidence I: System-level drifts: The plenary decision on leveraging the EFSF

“Here, there was a push from inside the majority. (...) In the end we were convinced that it had to be evaluated publicly, that was my opinion and that is how we did it in the end” (I2).

“The government made a u-turn here because there was considerable pressure from the parliamentary party groups (...). Because of persistent demands by the opposition, but also due to growing criticism in the governing coalition, one decided to lift it to the plenary after all” (I3).

“The Greens tabled a motion wanting to lift the decision to the entire plenary, this was at first rejected by the governing majority. But then they did realize that solely letting the budget committee decide would not create the necessary legitimacy. And this was one of

the few points where the government allowed to be convinced and was pushed towards a change of mind” (I1).

“We tabled a motion which was first rejected, but then the pressure from the own rows was already too high. I think the main reason was that we had a strong position and wanted to vote on this publicly so the voter knows that we voted for it” (I4).

“But then there was this huge public debate, now they are again dealing with so much money and this was of course pushed by the media and the opposition and also a bit in the own rows, so that there was a pervasive impression that this is such an important decision that cannot only be taken by the budget committee. (...) So at some point, this was being debated as the opposition, the media and some from our own rows said, we have to do more, this is important” (I5).

“The legal situation prescribes the budget committee. When we were discussing about the new *StabMechG* in our circles we were also thinking about whether the first approval of the guidelines should be done by the plenary. But then it was agreed to do this in the budget committee. But in political practice legal provisions are of course always only a minimum of participation. But if, like in this case, such a substantial interest is crystallized out in public opinion and it becomes clear that this is a question that touches the *Bundestag* as a whole, then this is the way to go and this is how our parliamentary party group leader has decided then, based on an inter-party consensus that this has to be decided in the plenary. This of course creates a much higher outside visibility and also a very different legitimizing power, I mean I do not at all question the legitimacy of the budget committee but of course this is a much stronger signal, if the decision is taken publicly with the support of the SPD and the Greens. So, this is not really a u-turn, it was a process at the end of which we agreed also with the other parliamentary party groups, and indeed the Greens were the ones pushing here, to lift it to the plenary. This can happen again in the future, if you think about the topicality and the importance of this topic, where one is of the opinion that the plenary should rather decide here. So, the legal prescription is of course the minimum, but politically you can, and sometimes probably should, go beyond this of course” (I6).

“After first old reflexes by the governing majority, there was the realization that - as it was disputed whether this change in guidelines actually did constitute a risk for the budget – that it cannot hurt to let the plenary decide and then they are on the safe side for sure” (I7).

“Because in the end it was a political debate, they agreed to lift it to the plenary. The governing coalition did not see it as altering the overall level of guarantees, the opposition saw this differently” (I8).

“They reconsidered as it is simply just such an important topic for the people (...), the public attention was huge” (I9).

“I think it was a mixture of public, medial and oppositional pressure. No one wanted people to go to Karlsruhe again” (I13).

“It was a hot topic for the public, so we decided to lift it to the plenary” (I14).

(7) Evidence II: Individual-behavioral drifts: The ‘Lammert decision’ – letting ‘deviants’ talk in the plenary

Entirely positive assessment

“Normally it is the case that the parliamentary party groups represent one opinion. (...) And of course the parliamentary party groups are indispensable as organizational units because otherwise we do not have a thriving debate, but in such cases there has to be a certain flexibility by the president” (I7).

“For parliamentarianism as such, this was not unusual, for the *Bundestag* this was a bit revolutionary in a sense. I mean it just doesn’t represent all the different opinions. (...) And in this regard this was an important thing for the *Bundestag* indeed because now it has been used again by Ströbele in the case of Afghanistan. I think it is good, we are way too hierarchically organized sometimes and this is not good for the parliament, especially with regard to this topic” (I15).

More negative assessment

“Usually the parliamentary party groups distribute the debating time. So this was a bit unusual and will most likely become a precedent for other questions that are of equal importance so that someone with a deviant opinion has to talk here, too. This is in any case a difficult thing, and should probably not become the rule because otherwise we have a ‘hullabaloo’. And this also goes against the logic that the governing majority carries the government. (...) So, the fact that deviant opinions are heard in a plenary debate is good, but it has to fit into the overall system because otherwise we will get into an imbalance” (I9).

“From its entire logic the decision did not really fit in well with functioning or the parliamentary logic as the *Bundestag* is organized in such a way that its members form parliamentary party groups and organize their work through them. In a debate, the parliamentarian of course talks representing his party group, this is the case in all parliamentary party groups, this has always been the case in all legislative periods and I think this is the only way a smooth functioning of a parliament is possible. If you want to also hear a deviant opinion on each issue that is not a matter of conscience you would debate at night still, then the system really does not work anymore. (...) The decision-making has to take place in the parliamentary party group; this is where the opinion is formed with all the fights and conflicting interests that are normal and necessary. (...) And when this opinion has been formed, in the debate usually the opinion of the parliamentary group is represented by the speakers. (...), I mean it has not hurt democracy or the parliamentary party groups, either. But this should now not always be the case because then the system simply doesn’t work” (I6).

“The basic rule in parliament is that the debating time is set in the Council of Elders and the parliamentary party groups get time according to their size, this is of course a correct principle. (...) And here I think it is good that Lammert pondered whether the existing rights of parliamentarians should solely be determined by their parliamentary party groups. (...) This does of course lead to a bit more flexibility and I generally approve of this. On the other

hand, this handling is stretched to its limits when in some cases - and these will always only be cases of extremely fundamental importance – when you have two dozens of parliamentarians wanting to say something as well. (...) This is why the decision of course also led to some critique, but in the end, we are freely elected parliamentarians and we cannot be forced into a corset every time, in which we cannot at all anymore, or at least not publicly, say what we really think about certain things. (...) And it is indeed something different, if they can talk in the plenary before the vote than issue a written statement attached to the plenary protocol” (I1).

“Lammert is a very, very important parliamentary president, when it comes to parliamentary rights and he does have an impact on the government. But this was a difficult decision. Of course, individual members of a parliamentary party group who do not advocate the majority’s opinion do have to have the opportunity – as this is the right of every parliamentarian – to declare this. But they can in form of a written or oral personal statement after the debate for instance. This I perceive to be essential. This right is not allowed to be cut. But I also think this is sufficient (...). Of course Lammert wanted them to be heard before the vote because after the vote it doesn’t matter anymore” (I2).

“This was indeed something new, it has never happened in 60 years. One should probably not do this too often as we also have to vote at some point, but the president seems to set a new rule here” (I4).

“I think this is a good example that a parliamentary party group is not only a ‘gullible voting organization’. I mean everyone has a conscience and everyone also of course wants that this governing coalition works, so everyone has to make concessions every now and then, and especially with regard to such a core question, there are always people with a differing opinion. (...) And that Lammert allowed this, and now Ströbele did the same with Afghanistan, this is clearly a precedent, it is an opener and everyone will say ‘why are we not allowed now? It is hard to say where it begins and where it ends. What about other debates, does Lammert decide this always and for whom does it actually apply? Let’s hope it was not a Pandora’s Box (...). I think our GO is sufficient here really, because I am afraid it will not be so easily controllable” (I14).

“The decision might cause effects that can probably not be contained anymore. And you now have the case of Ströbele using this already. I think in the *Bundestag’s* GO there are sufficient possibilities to state other opinion. Of course Lammert wanted to let them talk before the vote, but this could really create a mimic-effect for all policy areas. Plus, who will in the future decide what is considered an important topic and what is not?” (I13).

(8) Evidence II: Individual-behavioral drifts: Public deviation by members of the governing majority

“I do think it (deviation in the media on policy grounds) was somewhat normal because it is such an important decision. (...) In the end, the weight of the decision and the sensation that some are not willing to follow their party leaders makes a good story” (I14).

“And if someone like Bosbach deviates from the Chancellor’s line, and he is not just somebody in the CDU, then this is of course a topic, and the media takes it up, saying the majority is under pressure. But I think these are developments that would be the same in the case of very important domestic issues. Look at Schröder’s Agenda 2010, he had a very slim majority, it was similar, you had deviants in the media, pressure from the party group to get in line, it was even worse back then when looking at the majority situation. What I am trying to say that with such important decisions for the voter, this is totally normal” (I13).

“If you look at the public deviation in the media, I mean this has always been the case, there are always some who deviate and they of course receive the media attention. Just remember the Agenda 2010, there were a couple of parliamentarians that were opposing it publicly and they received huge public attention, it was ‘the deviants’. And of course the parliamentarians also play with this logic, it is always true, whenever you openly criticize your leaders, you can be sure to get the journalists’ attention. (...) But the fact that there are some deviants, this I would not see as a new development, this you always have with such prominent topics as the Euro crisis. It is similar to the Agenda 2010, there was huge attention towards the critics. But the fact that individual parliamentarians openly admit ‘I disagree with my leaders’ that is something normal. In the end taxpayers do care about their money” (I12).

“It is nothing new that some parliamentarians ‘revolt’ against the party mainstream and thus receive media attention” (I3).

(9) Role orientation: member of the governing majority/opposition or parliamentarian

“I think this self-perception and self-confidence of being a parliamentarian with own rights is stronger in the *Bundestag* than in other parliaments in Europe. (...) But of course the parliamentarians organize themselves in parliamentary party groups, these are the majority parliamentary party groups and the opposition parliamentary party groups, this is how the parliamentarianism works in Germany, and this is why every member of the governing majority is someone who carries the government and every member of the opposition has a public control function vis-à-vis the government. So, I think the two roles are complementary, but I think the parliamentarian orientation has increased in the last years in European politics. It has really increased first with increasing the participation rights and now with all the decisions related to the crisis. But it is important that this reaches the heads of the parliamentarians. It is important that everyone is aware of this responsibility for integration, to internalize and to practice it. And I think this is done to a very high degree, the *Bundestag* can always get better, but in many areas it is really exemplary” (I6).

“Formally, I am a member of the opposition. (...) But I also see myself as a simple parliamentarian. (...) I ask questions that I deem necessary, I examine issues that seem dubious. And this I do as a parliamentarian independent of the guidelines I get from the leaders of my parliamentary party group. (...) If I had this attitude, regardless of if I was in the governing majority or the opposition, we would not need democracy with sophisticated election campaigns and responsibility for the citizen” (I1).

“For me these two don’t constitute polar opposites, both is true” (I2).

“These are not mutually exclusive categories. I am a parliamentarian. But of course deduced from the election result I am member of the opposition and creating a public debate is my task” (I3).

“In the last months, I sometimes had the feeling I was more part of the governing majority than some of my colleagues from the governing majority. Firstly, I am a representative of the people, second I am a member of the Green party and third I want to topple this government” (I4).

“I think that in the kind of parliamentary system we have in Germany, the connection between governing majority and government is such a strong one that the parliamentarians’ consciousness of belonging to the opposition or the governing majority is decisive. (...) So, they see ‘I am either opposition or governing majority’, but this does not mean their actions and voting behavior always have to further the respective side’s interest. Of course – this is the free mandate – the parliamentarian can have a different opinion, but the general awareness ‘I belong to the governing majority or not’, this is key” (I5).

“I think when a parliamentarian is in his/her constituency. (...) There he/she is confronted with the voter and has to explain him/herself, so there they might sometimes also say that they disagree with certain things” (I8).

“The categories of opposition and governing majority are decisive for the entire work here, also the self-perception and external perception. But this is also blurred in European politics. We do a lot together being aware of our European responsibility. So even if we disagreed with the governing coalition, we carried the final decision. (...) You cannot too often deviate from your party-line, but especially in European politics I often rather feel like a free member of parliament” (I9).

“My belonging to the governing majority also has an important function for the voter, if everyone just did what they wanted all the time, the voter in the end would not know what he does with his voice. So of course it makes sense that parliamentary party groups coordinate and proceed consistently. But there are instances, where the individual parliamentarian deviates” (I10).

“There are many votes when you might think ‘now I was not really for it, but I am not going to make a fuss about it’. But there are certain topics where you cannot and must not do that” (I15).

“I think they are both individuals and members of a team and this is a constant balancing process. (...) What consequences does my decision have for my self-perception as a free parliamentarian and what as a member of my party group?” (I14).

“In the end you enter the parliament because you represent a certain political stream and these are the different interests of the people” (I13).

“I am of course not freely floating and I usually stick to the party-line. But there are of course situations where I do not feel like governing coalition or opposition and this is why I don’t say yes or no all the time” (I12).

“As I said, these two role-orientations are like two overlapping circles, sometimes they overlap more and sometimes less” (I17).

(10) The debt crisis and electoral salience

“At home in the electoral district, the parliamentarian is increasingly pressured by his voters to explain and regarding these questions (debt crisis), he cannot simply say ‘I do not really know, Mrs. Merkel does it this way’, this simply doesn’t work anymore” (I12).

“With regard to the domestic level, I think in general European politics is hard to sell on the market place of the electoral district. But to be fair, one has to make one qualification here, especially recently, the parliamentarians are increasingly asked when it comes to the rescue mechanisms, what are you doing there exactly, how is the money spent. This is indeed an existential topic and in the end it is the taxpayers’ money. Here the parliamentarians have to justify themselves vis-à-vis the voter and this is why their interest to know more, be involved more and understand more is very high and this is precisely what I mean with democratic legitimacy, this is the ideal scenario, the citizens ask ‘What is it that you are doing? Why are you doing this?’ and the parliamentarian has to explain himself, his position, the party position, the governing majority’s position, the opposition’s position, simply everyone, not only the budget or EU experts have to and want to do that now in their respective constituencies. This restriction has to be made as I think that in general European politics often do not ignite the public with interest, but with these kinds of questions which have a ‘European hook’, but ultimately concern the national budget, the taxpayer and have an immediate impact also on society as a whole and raise generational questions, here the citizens want to be particularly informed. This is a very desirable development indeed, it ultimately furthers the debate over political alternatives” (I5).

“Especially with this topic, the parliamentarians to increasingly have to justify themselves on the ground in their constituencies, and everything becomes much more transparent, too, people want to know in these cases, how has my parliamentarian actually voted and they do compare what he says in a local pub and in parliament and this does not carry far. And especially with this topic, the people do seem increasingly interested” (I14).

“Of course everyone has to be involved here. I ask myself sometimes how the parliamentarians are explaining this in their constituencies. European politics, Euro crisis, stability, all this money, this is an existential topic. (...) Your generation, your children will still have to deal with the decisions we make today, and the voter wants to know what is going on” (I1).

(11) The debt crisis and its cross-cutting implications

“I think the notion that no one cares for Europe is really outdated. More and more parliamentarians are now interested in Europe. So, today, especially with these topics, they do very well care. (...) You also need different experts, there is no such thing as the EU expert *per se*, you need labor market experts, finance experts etc. (...) so more parliamentarians want to be part of this. It is almost like a contest, everyone wants to be included. (...) And the opposition does present different viewpoints. They do fight lively in the parliament even

though in the end they might still carry the decision, so with regard to the end, they are softer” (I8).

“There are some topics which go across policy areas like the Euro crisis and this is why the parliamentarian who would normally not be involved is heavily involved now, not least as he is asked in his district by the party base on the ground, by the voter, by the citizenry and he has to be able to answer, to explain, to legitimize” (I15).

“There was also a wish in the governing coalition, it is such an important topic, and you need to take into account other aspects, too. Expertise in European matters (What do we do with the UK?), expertise in fiscal matters (What does leveraging actually mean for budget?) and expertise in economic matters (What does leveraging actually mean?)” (I17).

“Parliamentarians usually endorse more Europe as it sounds good, but when they realize that, especially with all the decisions underway now, more and more policy areas, including tax policy and social policy are touched by Europe, then they wake up and want to be involved” (I9).

“I think the Euro crisis has one positive aspect, more people have to deal with it and care about it now. The Lisbon Treaty was really the EAC’s turf and now with the EFSF, the budget and fiscal experts are needed, the spectrum of interested parliamentarians increases. Everyone wants to be involved as everyone is confronted with this topic also by the voter. (...) With regard to the Lisbon Treaty the committees did not fight about the lead competency, but now you realize that especially the budget committee seizes this topic and the EAC also has stakes” (I13).

"In essence, here now all parliamentarians deal with this topic, they are involved, ask questions, how does it work with Greece, how are the mechanisms designed..., everyone is interested now and has questions, this is not only a matter for the budget committee anymore” (...) (I14).

(12) Gradual politicization of European politics

“There is indeed a tendency to fight less over European issues in the sense that a certain pro-European consensus leads to the approval of decisions also by the opposition. The pro-European consensus with regard to the general canon of values and European integration as such surely does exist (...), this is beyond controversy. But, and this the crisis has clearly shown, European politics has at least for the last 2 years, become less and less foreign policy and more like real domestic politics. And you fight over domestic politics and that is a good thing because the decisions we are taking right now are not easy decisions over which you can and should fight politically. And here both governing majority and opposition play their respective parts. Thus, I would say that, yes there is a pro-European consensus, but we have long left behind the times where European politics was something so exotic that no one cared and you could hence not score points with it. Nowadays, European politics is domestic politics and especially the rescue mechanism debate shows how intensively the voters are interested, it also influences the polls. There is more debate in the parliament especially with regard to this topic, but I think it is a more general trend even which has been visible for a

while. There is a political discussion over alternatives in a democracy, also for European politics and one can and should fight about these” (I6).

“A lot has shifted because of the current debates about the EFSF, ESM and Fiscal Compact. Here the parliamentarians are really demanded to assess thoroughly the road we are now taking in Europe. (...) I am looking at European politics for 20 years now and something has changed. Back then we had this consensus ‘More Europe’ and now there is a more intensive debate about this ‘More Europe’, where to actually? This has always been the case time and again like around Maastricht, the introduction of the EMU, and here we go again. This is something to fight about” (I9).

“If you look at the development as a continuum, then on the one hand you have the classical foreign policy and on the other hand, you have the classical domestic policy, then European policy has really continuously been moving from foreign policy to domestic policy” (I5).

(13) Pro-European consensus and European politics as domestic politics

“Maybe the consensus sometimes leads to the fact that everyone carries certain decisions, but that does not mean there is no political discussion about them” (I2).

“We did pull a lot of things into the open during the last years (...) and even if we in the end voted with the governing majority, we did say clearly whenever we did not agree with certain things” (I4).

“And with regard to the EFSF, we did in the end vote for it even though we had criticism. And there are many domestic policy areas where we say, in general the government takes a right approach, we would only adjust some things here and there, but the result is of course not that we vote for it. With regard to European issues that is different, party truce is too strong, but the debates, if you look at them from the outside, like the EFSF, then the debaters from the governing majority and the opposition do ‘fight’ each other and in the end, all agree, this usually doesn’t exist” (I12).

(14) Efficiency – legitimacy dilemma and European politics as domestic politics

“You have a natural tension: the parliament has to decide freely, but at the same time regarding the Euro rescue issues you have a high demand for action capability because it has to be clear, when rescue is needed, rescue will happen” (I4).

“The conflict between efficiency and legitimacy exists, but we parliamentarians know that. We try to find a balance here, I mean in our constitution this balancing is also immanent, we never restrict the government too much and in the end the opposition usually also carries the major decisions, even if they disagree on some parts” (I2).

“There is indeed the awareness that decisions which the *Bundestag* has to take constitutionally and from the viewpoint of democracy theory can conflict with the room for maneuver and the pressure for fast decisions the heads of states and government experience especially these days. (...) But both the government and the parliament are aware of this potential conflict and try to balance it well (I6).

“This conflict exists, of course a bit more for the governing majority as the opposition has more leeway. But also in the opposition, we have to balance our decisions well in cases were

fast action is required like in the case of the stabilization of financial markets in 2008. And if some people say that only the government and its governing majority carry responsibility, this is not true, the opposition equally carries responsibility here” (I11).

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